

**Draft Interim 2003 Transportation Improvement Program (TIP)  
Index of Comments & Responses**

Commenter	Date	Nature of Comments	Comment Page Reference
<b>April Chan</b> , Peninsula Corridor Joint Powers Board (Caltrain)	08/22/02	Split rapid rail project into into six smaller projects	<b>Page 7</b>
<b>Marcella Rensi</b> , Santa Clara Valley Transportation Authority	09/11/02	Project Archive Prematurely	<b>Page 9</b>
<b>Geoff Kline</b> , B17	09/13/02	Transfer funding between projects	<b>Page 11</b>
<b>Maria Marinos</b> , Santa Clara Valley Transportation Authority	09/16/02	Delete 1 project and add 4 new projects	<b>Page 13</b>
<b>Michael P. Evanhoe</b> , Santa Clara Valley Transportation Authority	10/15/02	Add 1 new project	<b>Page 15</b>
<b>Dennis Fay</b> , Alameda County Congestion Management Agency	10/09/02	Change exempt status of 2 projects	<b>Page 17</b>
<b>Cheri Sheets</b> , City of Alameda	10/15/02	Change exempt status of 1 project	<b>Page 19</b>
<b>Dan McIntyre</b> , City of Livermore	10/07/02	Change exempt status of 1 project	<b>Page 21</b>
<b>Stewart D. Ng</b> , State of California Department of Transportation	10/09/02	Refine project listing	<b>Page 23</b>
<b>Art Brook</b> , Department of Public Works, Marin County	10/10/02	Refine project funding	<b>Page 26</b>
<b>Charlie Cameron</b> , General Public	10/10/02	General Comment	<b>Page 27</b>
<b>Frank Furger</b> , Alameda County Congestion Management Agency	10/16/02	Add new exempt project	<b>Page 29</b>
<b>Richard Napier</b> , City/County Association of Governments of San Mateo Co.	10/10/02	Add 1 new project	<b>Page 31</b>
<b>Anne Harper /Rachel Pelc</b> , Earthjustice	10/16/02	Various	<b>Page 33</b>
<b>David Schonbrunn</b> , TRANSDEF	10/15/02	Various	<b>Page 39</b>
<b>Marc Chyttilo</b> , Attorney/General Public	10/16/02	Various	<b>Page 51</b>

## 2003 DRAFT INTERIM TIP

### Projects Deleted from the Interim TIP.

TIP ID	SPONSOR	PROJECT NAME	PROJECT DESCRIPTION	Exempt Category	RESPONSE
1 BRT976003	BART	Pittsburg/Antioch Extension	Pittsburg/Antioch extension	TCM 2 RELATED	Funding outside of the TIP period (1996). Archived
2 SCL99T005	VTA	ADA Paratransit Assistance	SCVTA: ADA Paratransit Assistance.	Operating Assistance to transit agencies	Project deleted per sponsors requests and funding (6,760,000) moved to SCL990046 - Preventative Maintenance.
3 SCL99T012	VTA	Bus Replacement	SCVTA: Replace 34 1990 Flexible 40 foot Motor Buses. Half Moon Bay: SR 92/Main Street; Construct bicycle lanes and adjacent sidewalks, and install median landscaping.	Purchase of New Buses and rail cars to replace existing vehicles of for minor expansions of the fleet.	Funds transferred to preventative maintenance project.
4 SM-010040	Half Moon Bay	Bike/Sidewalk - SR92 Main Street		Bike Pedestrian Facilities.	Project deleted and funding transferred to another Bike/Ped. Project.

### Projects Added to the Interim TIP.

TIP ID	SPONSOR	PROJECT NAME	PROJECT DESCRIPTION	Exempt Category	CHANGE REASON
5 ALA010064	Caltrans	1580/San Ramon Rd/Foothill Rd. Interchange Imps.	Dublin: 1580/San Ramon Rd/Foothill Rd.; Replace I/C with a partial cloverleaf I/C, install signals at the new ramp I/C, widen the EB off-ramp to 2 Lanes & add EB aux lanes.	Interchange Reconfiguration Project	Status changed from non-exempt to exempt per AQCTF on 9/18/02 & add to the Interim TIP.
6 ALA030011	Caltrans	Route 680 Sunol Grade Soundwall	Sunol Grade: Construct soundwalls on I-680 between Calaveras Blvd. To Route 238. This is the soundwall component of the Southbound 680 HOV Corridor project.	Noise Attenuation	Added new exempt project per sponsors request.
7 ALA990051	Caltrans	Greenville Rd. RR Bridge & Pavement Reconst.	Livermore: On Greenville Rd from 0.06 Mi. N. of UPRR tracks to 0.25 Mi. S.; Widen road from 2 - 4 Ln, replace UPRR Bridge, correct curvature, vertical clearance, & alignment btw RR & roadway.	Changes in vertical and horizontal alignment	Status changed from non-exempt to exempt per AQCTF on 10/16/02 & add to the Interim TIP.
8 ALA990054	Caltrans	Tinker Avenue Reconfiguration	Alameda: On Tinker Avenue btw Webster St and Main St; Reconfigure intersection including the construction of a 4 Ln. extension to Tinker Ave, install signals, and modify Webster St Tube off-ramp.	Interchange Reconfiguration Project	Declined to change per AQCTF on 10/16/02.
9 BRT030001	VTA	BART Extension from Warm Springs to Milpitas	BART Extension from Fremont Warm Springs to Milpitas, San Jose and Santa Clara: Environmental & Preliminary Engineering.	Engineering to assess social, economic and environmental effects of the proposed action or alternatives to that action.	Added new exempt project to the Interim TIP per Sponsors comment/request using TCRP funds.
10 SCL-010019	Caltrans	I-880 Coleman Avenue I/C Reconfiguration	San Jose: I-880@Coleman; Reconstruct Coleman Ave. bridge & realign, reconst all ramps accessing I-880 & add new direct connection ramp to SB I-880 from Airport Blvd & Newhall St.	Interchange Reconfiguration Project	Status changed from non-exempt to exempt per AQCTF on 9/18/02 & add to the Interim TIP.
11 SCL010022	Caltrans	US 101 Aux Lane from SR 87 to Trimble Rd.	San Jose: US 101 from 0.8 km south of the SR-87/US-101 separation to 0.4 km north of Trimble Rd; Reconfigure interchange including realignment, eliminate, and construction of auxiliary lanes.	Interchange Reconfiguration Project	Status changed from non-exempt to exempt per AQCTF on 9/18/02 & add to the Interim TIP.

12	SCL030006	VTA	Guadalupe Corridor LRT Platform Rehab & Retrofit	San Jose: Guadalupe Corridor; Rehab and retrofit existing station platforms to accommodate Low floor light rail vehicles.	Rehabilitation and reconstruction of track structures, track and trackbed in existing right of way.	Add new exempt project to the Interim TIP per Sponsors request.	
13	SCL030010	VTA	Palo Alto Transit Center enhancements	Palo Alto: Palo Alto Transit Center; Various enhancements including installation of transit shelters and landscaping.	Transportation Enhancement Activities	Add new exempt project to the Interim TIP per Sponsors request.	
14	SCL991083	VTA	Vasona Corridor Extension Woz Way to Campbell	Vasona Corridor light rail extension: From San Carlos Street in San Jose to Campbell Avenue in Campbell; Construct 4.85 mile Light Rail System.	TCM 2 Related	Project archived prematurely by sponsor revived and added back to interim TIP.	
15	SM-030006	Caltrain	Systemwide Track Rehabilitation	Caltrain: Replace jointed rail and upgrade existing main line track on the Caltrain Corridor.	Rehabilitation and reconstruction of track structures, track and trackbed in existing right of way.	Add new exempt project (split from the Caltrain Rapid Rail Related Projects).	
16	SM-030007	Caltrain	Tunnel Rehabilitation	Caltrain: Rehabilitation work at the four tunnels to include repairs to the existing tunnel liners, improve drainage, and install lighting, ventilation and communication systems.	Rehabilitation and reconstruction of track structures, track and trackbed in existing right of way.	Add new exempt project (split from the Caltrain Rapid Rail Related Projects).	
17	SM-030008	Caltrain	Bridge Rehabilitation	Caltrain: Systematic rehabilitation and/or replacement of existing bridge structures and culverts on the existing main line tracks.	Rehabilitation and reconstruction of track structures, track and trackbed in existing right of way.	Add new exempt project (split from the Caltrain Rapid Rail Related Projects).	
18	SM-030009	Caltrain	Grade Crossing Rehabilitation	Caltrain: Upgrade timber, asphalt & rubber Xings to concrete panels. Replace/modernize grade crossing flashers & gates. Improve walkways approaching grade crossing & install fencing.	Rehabilitation and reconstruction of track structures, track and trackbed in existing right of way.	Add new exempt project (split from the Caltrain Rapid Rail Related Projects).	
19	SM-030010	Caltrain	Systemwide Security	Caltrain: Security enhancements such as installation of panic buttons, fire alarms and closed circuit cameras along the Caltrain Corridor.	Purchase of office and operating equipment for existing facilities.	Add new exempt project (split from the Caltrain Rapid Rail Related Projects).	
20	SON-030001	Caltrans	101 - Aux Ln. SB - Rt 116 to E. Wash.: Env Phase	US 101: Btw Rt 116 & E.Wash; Provide early operational improvements @ N. end of Marin-Sonoma Narrows prior to hwy widening. Env. Phase Only.	Engineering to assess social, economic and environmental effects of the proposed action or alternatives to that action.	Add new exempt project at sponsors request.	
21	SON990003	Caltrans	Rohnert Park - Park & Ride Lot & On Ramp	Rohnert Park: Rohnert Park Expwy/US 101 IC; Construct new P-n-R lot in the NE quad, a new SB loop onramp in the NW quad & modify existing P-n-R lot, NB on & off ramps, and the existing SB onramp.	Interchange Reconfiguration Project	Status changed from non-exempt to exempt per AQCTF on 9/18/02 & add to the Interim TIP.	

22	MRN030003	MARIN	Cal-Park Hill Tunnel Rehab & Class 1 Bikeway Imps.	Between Larkspur & San Rafael; Construct Class 1 Bikeway, including repair and rehab of an existing railroad tunnel.	Bike/Ped Facilities	Refined project funding and changed fund source from local to state bike funds.
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October 21, 2002

Steve Heminger  
Executive Director  
Metropolitan Transportation Commission  
101 8<sup>th</sup> Street  
Oakland, CA 94607-4700

Dear Steve:

This letter is a follow up to the Metropolitan Transportation Commission Staff's request for supporting information on the estimated cost of the Environmental and Preliminary Engineering Phase of the BART to San Jose/Santa Clara project. The attached budget estimates set forth the individual components of the Environmental and Preliminary Engineering Phase. Also for your information is a timeline identifying the major phases in the development of the BART to San Jose/Santa Clara project through final design.

Should you have any questions please do not hesitate to contact me at 408.321.5725.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Evanhoe", written in a cursive style.

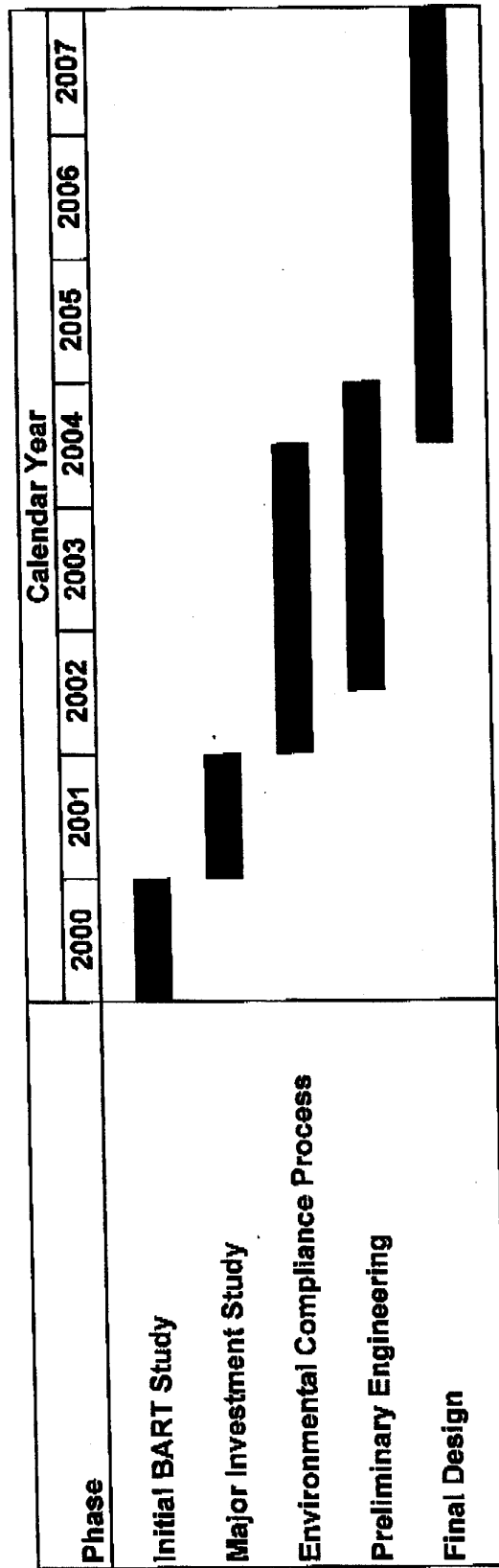
Michael P. Evanhoe  
Chief Development Officer

Attachment

**BART Extension to Milpitas, San Jose and Santa Clara**  
**Budget Estimates for Environmental / Preliminary Engineering Phase**

<b>Item</b>	<b>Budget</b>
1 VTA Labor	\$ 14,000,000
2 BART Labor / Initial Studies for Systems, Vehicles, Operations	\$ 21,600,000
3 EIS/EIR	\$ 6,800,000
4 Conceptual Engineering	\$ 12,800,000
5 Real Estate Assessment / Studies	\$ 2,000,000
6 Public Outreach	\$ 4,000,000
7 Station Area / Land Use Planning	\$ 3,000,000
8 Aerials, Planimetrics, Control Survey	\$ 5,500,000
9 Underground Utility Mapping	\$ 4,000,000
10 PE for New BART Vehicle	\$ 10,000,000
11 Preliminary Tunnel Design, Geotechnical Analysis, Ventilation, etc.	\$ 16,000,000
12 Preliminary Systems Design	\$ 11,000,000
13 Initial Value Engineering	\$ 1,500,000
14 PE for Stations	\$ 21,000,000
15 PE for Yard & Shop, Track Layout and Test Track	\$ 11,000,000
16 Line Segment PE and Geotech Analysis	\$ 11,000,000
17 Structures PE-Confirm Type Selection and Geotech	\$ 15,000,000
18 PE for UP Railroad Relocation Plan	\$ 3,350,000
19 Project Implementation Plan, Preliminary Construction Staging & Finance Plan	\$ 3,000,000
20 Project Controls-Cost Tracking/Estimates	\$ 4,500,000
21 Phase 2-Hazmat Investigations for PE	\$ 4,500,000
22 PE for BART Core Systems Improvements	\$ 7,500,000
23 Project Office Rent, Furniture, Computers and other direct costs	\$ 5,000,000
24 Contingency	\$ 16,000,000
<b>TOTAL</b>	<b>\$214,050,000</b>

**BART Extension to Milpitas, San Jose and Santa Clara  
Project Development Process**





August 22, 2002

Raymond Odunlami  
Metropolitan Transportation Commission  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Odunlami:

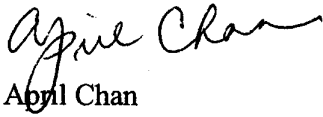
The purpose of this letter is to request that MTC approve the enclosed TIP Amendment requests, which are as follows:

- 1) De-program \$33,056,925 of FY 2003 and \$800,000 of FY 02 Section 5309 funds and \$8,150,094 of FY 2003 and \$200,000 of FY 02 local operator funds in Rapid Rail Related Projects TIP ID JPB990011.
- 2) Re-program \$13,276,925 of Section 5309 and \$3,205,094 of local operator funds in FY 2003 from Rapid Rail Related Projects TIP ID JPB990011 to a new TIP ID for Systemwide Track Rehabilitation.
- 3) Re-program \$2,400,000 of Section 5309 and \$600,000 of local operator funds in FY 2003 from Rapid Rail Related Projects TIP ID JPB990011 to a new TIP ID for Tunnel Rehabilitation.
- 4) Re-program \$960,000 of Section 5309 and \$240,000 of local operator funds in FY 2003 from Rapid Rail Related Projects TIP ID JPB990011 to a new TIP ID for Bridge Rehabilitation.
- 5) Re-program \$420,000 of Section 5309 and \$105,000 of local operator funds in FY 2003 from Rapid Rail Related Projects TIP ID JPB990011 to a new TIP ID for Grade Crossing Rehabilitation.
- 6) Re-program \$16,000,000 of Section 5309 and \$4,000,000 of local operator funds in FY 2003 from Rapid Rail Related Projects TIP ID JPB990011 to the Caltrain Maintenance Facility TIP ID JPB950001.
- 7) Re-program \$800,000 of Section 5309 and \$200,000 of local operator funds in FY 2002 from Rapid Rail Related Projects TIP ID JPB990011 to a new TIP ID for Systemwide Security. This proposal would de-obligate funds in approved FTA grant CA-90-Y123, from the Fencing project under Rapid Rail, pending approval of this TIP Amendment.

Approval of these proposed TIP Amendments, which are all part of the JPB's Rapid Rail Capital Improvement Program, would allow for a more precise description of these projects in the TIP. The Rapid Rail Related Projects TIP ID, which contains a broad array of rehabilitation, enhancement and expansion projects, is not exempt from air quality conformity regulations. The projects contained in the proposed TIP Amendments do not have air quality impacts and are exempt from air quality conformity regulations. (If MTC adopts a new TIP during the air quality conformity lapse that only contains exempt projects, implementation of the projects in these proposed TIP Amendments will not be delayed.)

Please contact me at your earliest convenience should you have any questions or issues associated with this programming request at (650) 508-6228.

Sincerely,

A handwritten signature in cursive script that reads "April Chan".

April Chan  
Senior Planner

Enclosures

cc: Kate Miller, MTC  
Bob Bates, MTC



Marc - Vaona got left out of the interim TIP.  
I think this was because it is under  
construction. Unfortunately, we need  
a supplemental FTA ENV sign-off in  
December, and for that it needs to  
be in the interim TIP. Can we get  
it added?

Thanks -



Raymond

The VTA would like to have the Vasona project put back into the TIP.

We may have taken it out because it is under construction.

However, it still requires a federal NEPA amendment approval.

Marc

September 13, 2002

Mr. Marc Roddin  
San Mateo County Liaison  
Metropolitan Transportation Commission  
Oakland, California

Dear Marc,

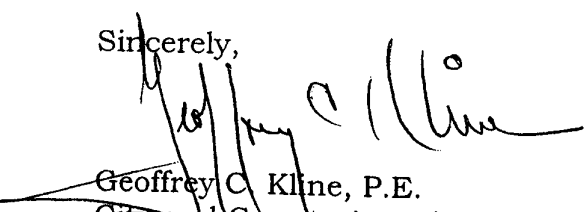
In San Mateo County, we have two air quality exempt (code 3.02) projects in the interim TIP (Half Moon Bay's SM-010040 and City of San Mateo's SM-991097). I have copied a printout that describes the two projects and their current funding onto the back side of this letter.

The City of Half Moon Bay has run into some delays in delivering their project whereas the City of San Mateo is ready to proceed immediately with theirs.

Please therefore switch all of the federal and local funds out of the Half Moon Bay project and into the San Mateo project. You may then delete the Half Moon Bay project from the TIP.

Please let either Rich Napier or myself know if you have any questions.

Sincerely,



Geoffrey C. Kline, P.E.  
City and County Association  
of Governments, San Mateo  
County

## Raymond Odunlami - VTA TIP Amendments

---

**From:** "Marinos, Maria" <Maria.Marinos@vta.org>  
**To:** "ROdunlami@mtc.ca.gov"  
**Date:** 9/11/2002 12:18 PM  
**Subject:** VTA TIP Amendments

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Raymond:

Attached are several requests for TIP Amendments. There is one more that I will forward to you within the hour.

Maria Marinos  
408-321-5773

<<2003-SCL99T012 Bus Repl.xls>> <<2003-Enh-PaloAltoTC.xls>>  
<<2003-SCL010046 CltrnStnUndrpssPrj.xls>> <<2003-BART to SJ.xls>>  
<<2003-JARC.xls>>

## Raymond Odunlami - TIP Prj: BART to SJ

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**From:** "Marinos, Maria" <Maria.Marinos@vta.org>  
**To:** "Raymond.Odunlami@mtc.ca.gov"  
**Date:** 10/1/2002 11:53 AM  
**Subject:** TIP Prj: BART to SJ  
**CC:** "Marc.Roddin@mtc.ca.gov" <Marc.Roddin@mtc.ca.gov>

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Raymond,

Recently we requested that you add the BART to SJ project into the 2003 TIP. The project is for CE/PE phase only to be funded with \$254,538,600 in State TCRP funds. No federal funds are programmed at this time.

The project engineer has developed a more refined estimate for the CE/PE phase. The new amount is \$214,050,000 (provided by State TCRP funds). Maria B. would like the new amount to be reflected in the TIP.

How would you like us to handle this? Do you want a formal TIP amendment to revise amount shown for the project in the TIP? If so, when do you need the info?

Maria



October 15, 2002

Hand delivered

Steve Heminger  
Executive Director  
Metropolitan Transportation Commission  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700

Dear Steve:

This letter is a follow up to Santa Clara Valley Transportation Authority (VTA) Chairperson Ron Gonzales' testimony at the Commission's Public Hearing on October 9, 2002. The Federal Transit Administration has recently approved VTA to proceed with Preliminary Engineering for the Silicon Valley Rapid Transit Corridor (BART to San Jose/Santa Clara) Project. VTA is confirming its original request that the Metropolitan Transportation Commission (MTC) include the Environmental and Preliminary Engineering (PE) Phase of the Project in the Interim Transportation Improvement Program (TIP). If the Commission adopts the original TIP, we would request that the Environmental/PE Phase of the BART to San Jose/Santa Clara Project be included in that document as well.

The Environmental and Preliminary Engineering Phase is estimated to cost \$214 million. VTA will provide you with additional information about the scope of this phase of the project prior to the October 23, 2002 Commission meeting.

Should you have any questions, please do not hesitate to contact me at (408) 321-5725.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mike Evanhoe", written in a cursive style.

Michael P. Evanhoe  
Chief Development Officer

# ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY



AC Transit  
Director  
Patrisha Piras

Alameda County  
Supervisors  
Gail Steele  
Scott Haggerty

City of Alameda  
Mayor  
Ralph Appezato

City of Albany  
Mayor  
Peggy Thomsen

BART  
Vice Chairperson  
Director  
Pete Snyder

City of Berkeley  
Councilmember  
Kriss Worthington

City of Dublin  
Councilmember  
George A. Zika

City of Emeryville  
Vice Mayor  
Nora Davis

City of Fremont  
Mayor  
Gus Morrison

City of Hayward  
Mayor  
Roberta Cooper

City of Livermore  
Councilmember  
Tom Vargas

City of Newark  
Councilmember  
Luis Freitas

City of Oakland  
Vice Mayor  
Larry Reid

City of Piedmont  
Councilmember  
Jeff Wieler

City of Pleasanton  
Chairperson  
Mayor  
Tom Pico

City of San Leandro  
Mayor  
Shelia Young

City of Union City  
Mayor  
Mark Green

Executive Director  
Dennis R. Fay

October 9, 2002

Mr. Steve Heminger, Executive Director  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94612

**RE: Comments on the Draft "Interim" 2003 TIP**

Dear Mr. <sup>*Steve*</sup>Heminger:

Please accept the following comments to the Draft "Interim" 2003 TIP.

**Project ALA990016**

This project is located in the I-680 corridor between Calaveras Road in Santa Clara County and Mission Boulevard in Alameda County. This project is incorrectly listed in the Draft "Interim" 2003 TIP as "construct auxiliary lane, HOV and lane on Sunol Grade". The auxiliary lane referenced has been constructed and is open to traffic. The remaining funds on this TIP entry are for the soundwall portion of this project as detailed below. The correct information is:

Project Name: I-680 Sunol Grade Noise Barriers

Project: Sunol Grade Corridor: Construct sound walls on I-680 from Calaveras Blvd to Route 238

Sponsor: Alameda County CMA

**Project ALA990051**

This project is located in the City of Livermore at the intersection of the Union Pacific Railroad Bridge and Greenville Road. This project has been inadvertently left out of the Draft "Interim" 2003 TIP. This is a railroad bridge replacement project and therefore an exempt project. Please include this project in the Draft "Interim" 2003 TIP.

**Project ALA990054**

This project is located in the City of Alameda at the intersection of Webster Street and Tinker Avenue. This project has been inadvertently left out of the Draft "Interim" 2003 TIP. This project will be addressing safety and operational improvements and therefore should be an exempt project. Please include this project in the Draft "Interim" 2003 TIP.

Thank you for the opportunity to comment. Please contact Matt Todd at 510-836-2560 if you have any comments or questions.

Sincerely,

*Dennis R. Fay*  
Dennis R. Fay  
Executive Director

cc: Doug Cole, City of Alameda  
Bob Vinn, City of Livermore  
Terry Bowen, Gray-Bowen and Company  
Ross McKeown, MTC  
Raymond Odunlami, MTC  
Dianne Steinhauer, MTC

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## City of Alameda • California

October 15, 2002

Mr. Steve Heminger, Executive Director  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94612

**RE: Comments on the Draft 2003 "Interim" Transportation Improvement Program (TIP) re Project ALA990054**

Dear Mr. Heminger:

The City of Alameda has reviewed the Draft 2003 "Interim" Transportation Improvement Program (TIP) along with the companion Draft Non-Exempt Project List and offers the following comments.

The City is the sponsor of the above referenced Project, which was not included in the Draft 2003 "Interim" TIP. The City feels that this project meets the criteria as an exempt project and requests that this project be included in the Draft 2003 "Interim" TIP. As a result, we would like to take this opportunity to clarify the scope and nature of the Project.

We believe that the following language more accurately reflects the description and scope of the Project:

**SR 260/Tinker Avenue- Intersection Modification: On Webster Street (SR 260) at Tinker Avenue between the Posey/Webster Tube and Atlantic Avenue; install signals, realign ramps, construct bikeway, upgrade transit facilities.**

This Project brings the geometry of existing entrance and exit points from Webster Street (SR 260) at Tinker Avenue to standard without affecting ADT of the Webster Street Tubes. The Project addresses both existing safety and operational issues. Enclosed are the following items, which should help to clarify the scope and nature of this project:

Public Works Department  
City Hall West

*Dedicated to Excellence, Committed to Service*

Alameda Point, Building 1  
950 West Mall Square, Room 110  
Alameda, CA 94501-7552

510 749.5840 • Fax 510 749.5867 • TDD 510 522.7538

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**Mr. Steve Heminger, Executive Director**

**Page 2**

**October 15, 2002**

- Project Fact Sheet
- Table summarizing existing and projected average daily traffic volumes for left-turn movements on to northbound Webster Street, and
- Three Exhibits, which highlight existing deficiencies, project features and geometrics, distribution of existing and projected turning movements, transit safety and operational improvements.

Thank you for the opportunity to comment. Please contact Doug Cole with the City of Alameda at (510) 749-5922 or Terry Bowen of Gray-Bowen and Company at (925) 947-1966 if you have any questions or need further information.

Sincerely,



Cheri Sheets

Deputy Public Works Director/ City Engineer

cc: Jim Flint, City Manger  
Matt Naclerio, Public Works Director  
Doug Wiebe, Wiebe Associates  
Terry Bowen, Gray-Bowen and Company  
Dianne Steinhauser, MTC  
Ross McKeown, MTC  
Raymond Odunlami, MTC  
Dennis Fay/Matt Todd, Alameda County Congestion Management Agency  
Jerry Ma, Caltrans Design Alameda I  
Bob Gross/Dennis Radel, Caltrans Environmental Planning  
Ron Moriguchi, Caltrans Environmental Engineering

# CITY OF LIVERMORE



"Wine  
Country  
Since  
1849"

## ADMINISTRATION BUILDING

152 S. Livermore Avenue  
Livermore, CA 94550-4899  
Ph: (925) 960-4000  
Fax: (925) 960-4058  
TDD (925) 960-4104

**MAYOR / COUNCIL**  
960-4010 • Fax: 960-4025

**CITY MANAGER**  
960-4040 • Fax: 960-4045

**CITY ATTORNEY**  
960-4150 • Fax: 960-4180

**RISK MANAGEMENT**  
960-4170 • Fax: 960-4180

**CITY CLERK**  
960-4200 • Fax: 960-4205

**COMMUNITY  
DEVELOPMENT**  
960-4400 • Fax: 960-4459  
*Building Division*  
960-4410 • Fax: 960-4419  
*Engineering Division*  
960-4500 • Fax: 960-4505  
*Housing Division*  
960-4580 • Fax: 960-4149  
*Planning Division*  
960-4450 • Fax: 960-4459

**ECONOMIC  
DEVELOPMENT**  
960-4140 • Fax: 960-4149

**DANCE DEPARTMENT**  
960-4300 • Fax: 960-4309

**FIRE DEPARTMENT**  
4550 East Avenue  
154-2361 • Fax: 454-2367

**LIBRARY**  
100 S. Livermore Avenue  
173-5500 • Fax: 373-5503

**PERSONNEL**  
960-4100 • Fax: 960-4105

**POLICE DEPARTMENT**  
10 S. Livermore Avenue  
171-4900 • Fax: 371-4950  
TDD 371-4982

**PUBLIC SERVICES**  
100 Robertson Park Rd.  
960-8000 • Fax: 960-8005  
*Airport Division*  
636 Terminal Circle  
173-5280 • Fax: 373-5042  
*Golf Course Division*  
1 Clubhouse Drive  
173-5239 • Fax: 373-5203  
*Maintenance Division*  
100 Robertson Park Rd.  
960-8020 • Fax: 960-8025  
*Water Resources Division*  
1 W. Jack London Blvd.  
960-8100 • Fax: 960-8105

October 7, 2002

Public Information Office  
Metropolitan Transportation Commission  
101 Eighth St.  
Oakland, CA 94607

**RE: Draft Interim 2003 TIP**

Dear Sir or Madame:

This letter provides comments from the City of Livermore on the Draft Interim 2003 TIP. Project ALA990051, the Greenville Road Widening and Union Pacific Railroad Bridge Replacement Project should be included in the Interim 2003 TIP.

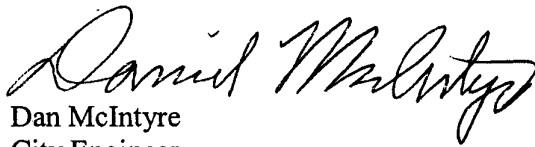
The Greenville Road Widening and Union Pacific Railroad Bridge Replacement Project is primarily a railroad bridge and pavement reconstruction project. Its purpose is to improve safety by correcting substandard horizontal curvature, vertical clearance, and alignment between the railroad tracks and the roadway. The project will provide a safer truck access to Lawrence Livermore National Laboratory, which has recently designated Greenville Road to access its new truck inspection facility as part of increased national security concerns due to the events of September 11.

The project does include approximately 200 meters of roadway widening to conform the roadway cross section to the City's General Plan. However, the roadway widening is only in the vicinity of the railroad bridge. The widened roadway section would transition to the existing roadway sections on either side of the bridge. The minor amount of roadway widening would not close any gap or add any significant capacity to Greenville Road. Greenville Road currently carries about 9,000 vehicles per day, and the traffic volume is not expected to change as a result of this project. The widened roadway section would accommodate bike lanes and pedestrian sidewalk under the bridge.

This project is not expected to impact regional or local air quality. The project has an approved Categorical Exemption/Categorical Exclusion approved by Caltrans and FHWA.

Please include Project ALA990051, the Greenville Road Widening and Union Pacific Railroad Bridge Replacement Project, in the interim 2003 TIP. Thank you for the opportunity to comment on the Draft Interim 2003 TIP. If you have any questions, please contact Bob Vinn, Senior Transportation Engineer at (925) 960-4516.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan McIntyre", written in a cursive style.

Dan McIntyre  
City Engineer

Cc: Frank Furger, Alameda County CMA  
Bob Vinn, Senior Transportation Engineer  
Harjit Sidhu, Associate Civil Engineer

**DEPARTMENT OF TRANSPORTATION**

OFFICE OF THE DIRECTOR  
1120 N STREET  
P. O. BOX 942873  
SACRAMENTO, CA 94273-0001  
PHONE (510) 286-5900  
FAX (510) 286-5903



*Flex your power!  
Be energy efficient!*

October 9, 2002

Mr. Steve Heminger  
Executive Director  
Metropolitan Transportation Commission  
Metro Center  
101 Eighth Street  
Oakland, CA 94607

Dear Mr. Heminger:

Attached are updated figures for use in the "Lump Sum SHOPP" listing (TIP ID:VAR-991005) in the Draft 2003 TIP and the Draft 2003 "Interim" TIP. It is also requested the line item ALA-991095 (Truck Climb Lane- Patterson to Grant) be removed since it is included under the SHOPP Lump Sum.

Your consideration of these proposed changes is appreciated. If there are any questions, please feel free to contact Sima Memari at 286-5762, or Jerry Claussenius at 286-5862.

Sincerely,

RANDELL H. IWASAKI  
District Director

By

A handwritten signature in black ink, appearing to read "Stewart D. Ng", written over a horizontal line.

STEWART D. NG  
Deputy District Director  
Program/Project Management

cc: D.Steinhauser/R.Mckeown/R.Odunlami (MTC)

Mr. Steve Heminger  
 October 9, 2002  
 Attachment A  
 Draft 2003 "Interim" TIP

# **Lump Sum Entries for the 2003 "Interim" TIP and Draft 2003 TIP.**

The following lump sum entry covers projects in various counties at various locations.

Lump Sum Description		Fund Type		Cost X \$1000	
		01/02	02/03	03/04	04/05

## **State HWY Projects/Programs:**

SHOPP: Non capacity increasing projects in approved SHOPP (including CONST, R/W, Support, and approved changes to projects).	All FHWA Funds	200,000	310,000	310,000	360,000
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COUNTY OF MARIN  
www.co.marin.ca.us/pw

# DEPARTMENT OF PUBLIC WORKS

P. O. Box 4186, San Rafael, CA 94913-4186 • 415/499-6528 • FAX 415/499-3799

Mehdi Madjd-Sadjadi, P. E.  
Director

October 10, 2002

Raymond Odunlami, Programming & Funding  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607-4700

FAX (510) 464-7848

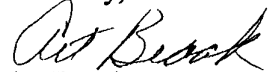
Re: Metropolitan Transportation Commission Pending 2002 TIP Adoption

Dear Mr. Odunlami:

Now that MTC is about to adopt a new Transportation Improvement Program, Marin County would like the TIP to include \$4,009,444.40 for improvement of the CalPark Railroad Tunnel to provide a bicycle linkage between Larkspur and San Rafael. The \$4,009,444.40 includes the following:

Programmed State share TEA funds -	\$3,000,000
Programmed BTA funds.....	\$908,500
Required BTA local match of 10%.....	\$100,944.4
Total .....	\$4,009,444.4

Sincerely,



Art Brook

Transportation Engineer

c: Farhad Mansourian, Chief Assistant Director  
Dean Powell, Principal Transportation Planner  
Tho Do, Associate Engineer  
Jack Baker, Senior Civil Engineer Bicycle  
Bérnicé Davidson, Assistant Engineer

f:\traffic\brook\cma\02\2002TIPCalPrk.doc (adb)

ADMINISTRATION  
415/499-6570  
•  
ACCOUNTING  
415/499-6528  
•  
AIRPORT  
451-A AIRPORT ROAD  
NOVATO, CA 94945  
415/897-1754  
FAX 415/897-1264  
•  
BUILDING MAINTENANCE  
415/499-6576  
FAX 415/499-3250  
•  
CAPITAL PROJECTS  
415/499-7877  
FAX 415/499-3724  
•  
ENGINEERING & SURVEY  
415/499-7877  
FAX 415/499-3724  
•  
COUNTY GARAGE  
415/499-7380  
FAX 415/499-3738  
•  
LAND DEVELOPMENT &  
FLOOD CONTROL DISTRICT  
415/499-6549  
•  
PRINTING  
415/499-6377  
FAX 415/499-6617  
•  
COUNTY PURCHASING AGENT  
415/499-6371  
•  
COMMUNICATION MAINTENANCE  
415/499-7313  
FAX 415/499-3738  
•  
REAL ESTATE  
415/499-6578  
FAX 415/446-7373  
•  
ROAD MAINTENANCE  
415/499-7388  
FAX 415/499-3656  
•  
TRAFFIC ENGINEERING  
415/499-6528  
•  
TRANSIT DISTRICT  
415/499-6099  
FAX 415/499-6939  
•  
WASTE MANAGEMENT  
415/499-6647

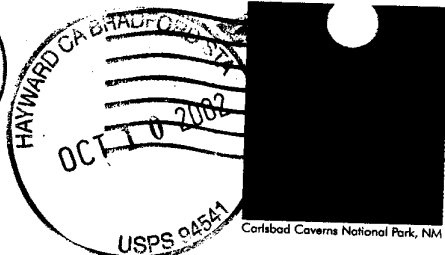
Oct. 10, 2002

Dear MTC:

Item (1) The Draft Interim 2003 Trans. Improvement Program, looks OK, but with all of the minor typos that I will let a Mr. David S. send in corrections. (2) I did learn a few things in the TRANSIT AREA THAT I DID NOT KNOW OF AND AM LOOKING FWD. FOR THEM TO COME ON LINE & OPERATIONAL. (3) I as I see IT you will NEED A HIGHER POWER THAN THE MTC COMM. RIDERS TO GET THE REQUIRED 15% INCREASE IN TRANSIT RIDERS ONLY BY A SQUAD OF MASS TRANSIT ZELOTS THAT WOULD WORK FOR YOU IN THE FIELD, SCHOOLS, CHURCHES, JAILS, HOMELESS SHELTERS, BART STATIONS, EDD OFFICES, WELFARE TO WORK, ECT. PLEASE FEEL FREE TO ADD MY NAME TO THE/YOUR LIST IF YOU NEED HELP IN RIDERSHIP & CORRECT ALL OF THE MISSTAKES OUT THERE.

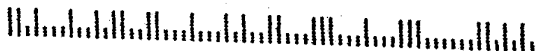
V.T.Y. Charlie Cameron

Charlie Cameron  
P.O. Box 55  
Hayward, Ca. 94548



MTC,  
Public Info Office  
101 8 Street  
Oakland, Ca. 94607

10  
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ALAMEDA COUNTY  
CONGESTION MANAGEMENT AGENCY



October 16, 2002

AC Transit  
Director  
Patricia Piras

Alameda County  
Supervisors  
Gail Steele  
Scott Haggerty

City of Alameda  
Mayor  
Ralph Appezato

City of Albany  
Mayor  
Peggy Thomsen

BART  
Vice Chairperson  
Director  
Pete Snyder

City of Berkeley  
Councilmember  
Kris Worthington

City of Dublin  
Councilmember  
George A. Zika

City of Emeryville  
Vice Mayor  
Nora Davis

City of Fremont  
Mayor  
Gus Morrison

City of Hayward  
Mayor  
Roberta Cooper

City of Livermore  
Councilmember  
Tom Vargas

City of Newark  
Councilmember  
Luis Freitas

City of Oakland  
Vice Mayor  
Larry Reid

City of Piedmont  
Councilmember  
Jeff Wieler

City of Pleasanton  
Chairperson  
Mayor  
Tom Pico

City of San Leandro  
Mayor  
Shelia Young

City of Union City  
Mayor  
Mark Green

Executive Director  
Dennis R. Fay

Mr. Steve Heminger, Executive Director  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94612

**RE: Comments on the Draft "Interim" 2003 TIP - I-680 Corridor Improvements**

Dear Mr. Heminger:

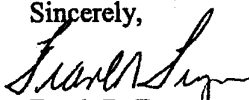
The Alameda County Congestion Management Agency has reviewed the Draft 2003 "Interim" Transportation Improvement Program (TIP) and offer the following comments regarding the I-680 Corridor Improvement projects.

Please find included as an attachment to this cover three TIP Amendment forms. The three TIP amendment forms detail the changes to the I-680 Corridor Improvement Projects we are requesting. A summary of the proposed changes include:

- Clarifying the ALA990016 project as an auxiliary lane project and removing additional funds listed in this TIP entry to other portions of the I-680 Corridor Improvement project.
- Separating the soundwall component of the I-680 Corridor Improvement project into a stand-alone TIP entry and project in the document.
- Adjustment of the ALA991084 TIP entry to reflect the latest estimates for the I-680 Corridor Improvement Project.

Thank you for the opportunity to comment. Please contact Matt Todd at 510-836-2560 if you have any comments or questions.

Sincerely,

  
Frank R. Furger  
Deputy Director

cc: Emily Landon-Lowe, Caltrans District 4  
Marcella Rensi, Santa Clara VTA  
Raymond Odunlami, MTC

Attachments



**C/CAG**  
**CITY/COUNTY ASSOCIATION OF GOVERNMENTS**  
**OF SAN MATEO COUNTY**

*Atherton • Belmont • Brisbane • Burlingame • Colma • Daly City • East Palo Alto • Foster City • Half Moon Bay • Hillsborough •  
Menlo Park • Millbrae • Pacifica • Portola Valley • Redwood City • San Bruno • San Carlos • San Mateo • San Mateo County •  
South San Francisco • Woodside*

October 10, 2002

Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

Attention: Dianne Steinhauser

Subject: Inclusion of Third to Millbrae Highway 101 Auxiliary Lane Project In  
the Interim TIP

Dear Dianne:

The City/ County Association of Governments of San Mateo County is supportive of the Draft 2003 Interim Transportation Improvement Program (TIP) as presented by MTC staff. The inclusion of the HOV lanes is especially critical since it encourages ride sharing, vanpools, and provides benefits for express buses.

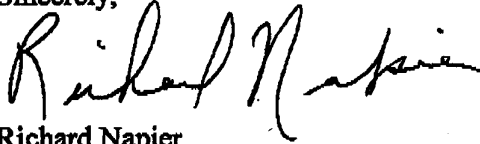
The top priority highway project in San Mateo County, the Third Avenue to Millbrae Avenue Highway 101 Auxiliary Lane Project, is not in the Interim TIP. It is requested that the MTC staff and the Air Quality Conformity Task Force consider approving this project for the Interim TIP. The basis for this request is as follows.

- 1- While the Auxiliary Lanes widen the road between the interchanges the capacity is still limited by the lanes at the interchanges. This project will not increase the number of thru lanes. Therefore, there is no thru capacity increase.
- 2- The auxiliary lane improves the weave, ingress, and egress to the freeway which are operational parameters.
- 3- The project is currently undergoing environmental and design concurrently. It is requested that as a minimum these two phases be allowed to continue

Given the significant operational benefits of this project it is requested that this project be included in the Interim TIP. Jim McKim, 650 508-7944, of the San Mateo County Transportation Authority can provide the detailed material necessary for consideration of this request.

MTC consideration of this is appreciated. If there are any questions please contact me at 650 599-1420.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Napier". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Napier".

Richard Napier  
Executive Director  
City/ County Association of Governments

**Attachment**

cc: Sue Lempert - MTC Representative  
Mike Nevin - MTC Representative  
Howard Goode - Transportation Authority  
Joe Hurley- Transportation Authority

October 16, 2002

VIA EMAIL and FAX: 510-464-7848

Steve Heminger, Executive Director  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

**RE: Comments on Draft Interim 2003 TIP**

Dear Mr. Heminger:

Thank you for the opportunity to comment on the Draft Interim 2003 Transportation Improvement Program (ITIP). We believe that certain revisions of the ITIP are necessary, due to (1) the absence of essential information in the document; (2) the erroneous insertion of entire categories of projects that are not eligible for inclusion in an ITIP; and (3) the improper categorization of certain projects. Furthermore, the procedural and public process requirements of the ITIP have not been met, and for that reason we urge the Metropolitan Transportation Commission (MTC) to re-circulate a revised version of the ITIP for public review.

**I. Project Descriptions are Inadequate.**

Overall, the level of description provided for each project in the ITIP is inadequate for meaningful public review. In many cases it is difficult to obtain any clear understanding of the project from its ITIP description. Without adequate project descriptions, the public cannot fully understand and comment on the ITIP.

**II. TCM A and TCM 2 Related Projects are Improperly Included and/or Identified.**

As MTC is aware, the Bay Area is currently in a conformity lapse, due to the absence of an adequate Motor Vehicle Emissions Budget. During a lapse, only projects that meet certain criteria may proceed. Among those projects are Transportation Control Measures (TCMs) in approved State Implementation Plans (SIPs). Federal Highway Administration Transportation Conformity Reference Guide, C-4-4. According to numerous MTC memos and public statements, many of the projects in the ITIP are included because they "substantially support" implementation of TCMs, namely TCM A and TCM 2.

**A. TCM A is not in an approved SIP.**

TCM A is not in an approved SIP. MTC acknowledges this in the summary sheet attached to the September 13, 2002 MTC memo to the Programming and Allocations Committee, which states

that “while the EPA has not yet approved the 2001 Air Quality Plan, MTC anticipates that it will approve the TCMs in that Plan, including TCM A.” This is not a valid basis on which to include projects in the ITIP; projects that were included in the Draft ITIP because they support implementation of TCM A may not legally be included in the Final ITIP.

**B. TCM 2 projects have not been properly identified and/or included.**

MTC has not identified which projects in the Draft ITIP were included for the purpose of implementing TCM 2. The Final ITIP should be amended to include this essential information.

In a recent ruling, the U.S. District Court ordered MTC to implement TCM 2 by November 2006, by increasing regional transit ridership 15% over 1983 levels. *Bayview Hunters Point Community Advocates v. MTC*, 212 F. Supp. 1156 (2002). The Court ordered that MTC amend its Regional Transportation Plan (RTP) to identify projects that will achieve the ridership increase required by TCM 2 and to provide the implementation schedule, estimated costs, and expected ridership gains of each project. *Id.* at 18. Pursuant to this order, MTC released a Draft RTP Amendment on September 25, 2002.<sup>1</sup>

As counsel to the parties initiating the *Bayview Advocates* litigation, we obviously support the Court's order requiring MTC to identify and describe projects that will achieve the required ridership increase in the RTP Amendment. *Id.* However, in its implementation of TCM 2, MTC must also comply with all the other applicable laws and regulations, including the conformity regulations regarding which projects are permitted to proceed during a conformity lapse. While the U.S. District Court order specifically requires MTC to amend the RTP to include ridership-increasing projects, it does not create a new exemption category through which projects may go proceed during a conformity lapse. MTC must justify the legal basis for the new exemption category for projects that “substantially support” TCM 2.

**C. TCM 2 projects should be included in the RTP Amendment.**

According to a spreadsheet emailed to the Conformity Task Force by MTC on September 25, 2002, there are 89 projects in the ITIP that are identified as contributing to TCM implementation. Most of these projects are not included in the Draft RTP Amendment. Pursuant to the U.S. District Court's order, in the RTP Amendment, “MTC shall identify and describe *all* projects it will fund as part of its strategy for achieving the required ridership increase.” *Id.* Thus, any project in the ITIP that is expected to contribute to TCM 2 implementation must also be included and analyzed in the RTP Amendment.

**III. Certain Projects are Improperly Categorized.**

Based on the limited information available, we believe that the projects in the following sections may be ineligible for inclusion in the ITIP. Where necessary, comments are followed by the project titles and descriptions, with relevant portions *italicized and underlined*. MTC should either omit these projects from the Final ITIP or clarify the basis for their eligibility.

**A. Projects designated as exempt appear to contain non-exempt components.**

---

<sup>1</sup> We will be submitting separate comments on the RTP Amendment.

As previously mentioned, only certain types of projects may advance during a conformity lapse. Among them are projects exempt from air quality conformity analysis as set forth in 40 C.F.R. §§ 93.126 and 93.127. Some of the projects designated as exempt in the ITIP appear to contain non-exempt components that are not eligible for inclusion in the ITIP.

1. Interchange reconfiguration projects and auxiliary lanes.

MTC acknowledged at the September 18, 2002 Conformity Task Force meeting that only interchange reconfiguration projects that do not increase capacity are exempt according to the Bay Area Transportation Air Quality Conformity Procedures (Conformity Procedures). Therefore, all interchange reconfiguration projects that do increase capacity should be excluded from the Final ITIP; those that do not increase capacity should be described accordingly.

Auxiliary lanes are *not* exempt according to the Conformity Procedures and may *not* be included in any exempt project, including interchange reconfigurations. For example, projects ALA-010008 and ALA-010013 described below both contain auxiliary lanes and thus are either (a) incorrectly described or (b) incorrectly identified as exempt projects. MTC should also clarify whether the expansion of the northbound overcrossing in ALA-010008 will increase capacity.

ALA-010008 580/ Tassajara Rd Interchange Imps

Description: Dublin: At I-580/Tassajara Rd; Reconstruct and expand northbound overcrossing, add eastbound and westbound auxiliary lanes between Tassajara and Fallon and improve on/off ramps.

ALA010013 Vasco Rd/I-580 Interchange Modification

Description: In Livermore: On I-580 between 1<sup>st</sup> St. and Vasco Road; Construct Eastbound auxiliary lane and modify I-580/Vasco Road Interchange.

2. Other examples of questionably “exempt” projects.

The description of SOL-991103 should be amended to clarify whether or not this is a capacity-increasing project.

SOL-991103 Napa River to Route 29 – planting

Description: Vallejo: from Napa River to Sonoma Boulevard (Route 29) – 2 lane highway to 4 lane freeway, planting

ALA-974003 should be amended to clarify why it is exempt under “traffic control devices and operating assistance other than signalization projects.” This project, which includes a high-occupancy vehicle (HOV) bypass lane and auxiliary lane, does not appear exempt based on its description. Please also clarify what “other interchange improvements” are involved.

ALA974003 I-880 Ramp metering with HOV bypass lanes

Description: Fremont: I-880 from Thornton Ave to Decoto Rd; Install ramp metering lanes with HOV bypass lanes and northbound auxiliary lane and other interchange improvements.

**B. HOV Projects and Non-HOV Lane Construction.**

MTC has apparently taken the position that HOV projects are exempt from conformity requirements, despite evidence regarding HOV lanes' potential to increase capacity and thereby increase emissions, depending on the particular operational criteria that apply (such as hours of operation, levels of occupancy, mixed-use capability, etc). For the public to comment on HOV lane construction projects, specific information regarding these operational criteria must be provided so that the potential air quality benefits can be evaluated.

In addition, it appears that a number of HOV lane construction projects also include non-HOV lane construction. Although MTC has stated that the ITIP cannot and does not include non-HOV lane construction, certain highway expansion projects, such as CC-010009 and CC-990007 described below, appear to include non-HOV lane construction. MTC must specify whether *any* projects include non-HOV lane construction. MTC must also specify for these *and all* projects that involve interchange reconfiguration whether the reconfiguration will increase capacity. Non-HOV lane construction and capacity-increasing interchange reconfiguration projects must be excluded from the Final ITIP.

CC-010009 SR 4 East Widening from Loveridge to Sommersville

Description: SR 4: from Loveridge to Sommersville: widen to 8 lanes to Standard Oil Undercrossing including HOV lanes and widen to 6 lanes to Sommersville. Project includes BART median and reconstruction of Loveridge interchange.

CC-990007 Rt. 4 Widening- RR Ave. to Loveridge Rd.<sup>2</sup>

Description: Pittsburg: Rt 4 from RR Ave. to Loveridge; Widen from 4 lanes to 8 including HOV lanes and BART median, reconstruct RR Ave interchange & Harbor St overcrossing.

**C. Projects that will likely not be completed in time to implement TCM 2.**

According to the U.S. District Court order, the transit ridership increases necessary for TCM 2 implementation must occur by November 2006. In an October 14, 2002 memo to the Conformity Task Force entitled "HOV Lanes Questions and Answers," MTC wrote "we are more confident at this time in predicting the start of construction dates, and then assuming a reasonable construction timeframe, as the means to determine which HOV projects are likely to be open prior to November 2006." While it may be difficult to predict completion dates, certain projects warrant considerable doubt. In particular, projects ALA-010014 and ALA-978027, both Sunol Grade HOV projects, have \$57.3 million and \$10 million in post-FY 04-05 funding, respectively. Unless these projects will be fully operational and facilitating transit service by November 2006, these projects should not be included in the ITIP.

---

<sup>2</sup> Although this project is slated for construction funding starting in FY 02-03, it is not under construction. MTC staff has indicated in the MTC Spreadsheet that it needs a federal action to proceed.

#### **IV. Procedural Requirements were Violated.**

According to Appendix A, Section C of the National Memorandum of Understanding between the U.S. Department of Transportation and the U.S. Environmental Protection Agency, "it is expected that the process necessary to develop Interim Plans and TIPs with new projects, not previously conforming, will take most areas at least 6 months." In contrast, MTC is attempting to complete the ITIP process in only two months. MTC staff announced at the August 19, 2002 Partnership Technical Advisory Committee Meeting that there were no immediate plans to produce a Draft ITIP. Less than a month later, on September 13, MTC released the Draft ITIP for public review. Staff will recommend that MTC Commissioners adopt this ITIP during their October 23, 2002 meeting. This rushed process has resulted in a flawed document on which the public has not been given adequate time or information to comment.

##### **A. The Draft ITIP did not undergo required interagency consultation prior to release.**

According to the San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures (AQCIC Procedures):

MTC will convene the Conformity Task Force to review the regional conformity assumptions and analysis of the TIP as early in the process as possible. *Before the TIP is released in draft form*, MTC will convene the Conformity Task Force to consult on, at a minimum, the following:

- Modeling assumptions
- Projects assumed in the transportation network
- The emission factors proposed for conformity analysis
- Horizon years
- Implementation of TCMs
- Financial constraints and other requirements that affect conformity pursuant to Federal Statewide and Metropolitan Planning regulations.

While MTC did convene the Conformity Task Force on September 18, 2002, MTC's failure to consult with the Conformity Task Force *before* the Draft Interim TIP was released is a violation of AQCIC Procedures.

##### **B. MTC has changed the exemption status of projects without interagency consultation.**

Although the ITIP is comprised of projects that were included in the Draft TIP released in May 2002, MTC's failure to consult with the Conformity Task Force prior to release of the Draft ITIP is nevertheless a violation of AQCIC Procedures. Any doubt on this issue is obviated by the fact that some projects are described differently in the Draft ITIP than they were described in the Draft TIP. Of particular concern, MTC has recategorized as air quality exempt some of the projects that were classified as non-exempt in the Draft 2003 TIP. For example, projects SM-991079, NAP-010001 and SON-010002, which were categorized as non-exempt from air quality analysis in the Draft 2003 TIP, are categorized as exempt in the online version of the ITIP at

<http://www.mtc.ca.gov/publications/tip/tipind.htm>. This change was made without the required interagency consultation of the Conformity Task Force.

**C. MTC has added projects to the ITIP during the public review period.**

During its September 18, 2002 and October 16, 2002 meetings with MTC, the Conformity Task Force agreed that several additional projects could be designated exempt and added to the ITIP. MTC has not notified the public of these additions. Because these projects have not been included in the Draft ITIP for public review, they should not be adopted into the Final ITIP, *nor should any other projects that do not appear in the Draft ITIP.*

Due to these procedural violations, MTC should re-circulate the Draft ITIP “for public review at least 30 days prior to any MTC final action,” in accordance with AQCIC Procedures, III.b.

**V. TCM Related Air Quality Exemption Category is Questionable.**

MTC has created an air quality exemption category for “TCM Related” projects, coded as “90.00” in the online version of the ITIP. We question the legal basis for this categorization. According to the Conformity Procedures, projects that are related to TCMs are not necessarily exempt from air quality conformity analysis. Air quality exemption category “90.00” should be removed and all projects with this designation should either be designated as non-exempt or assigned another exemption code, if eligible. In addition, the version of the ITIP should be modified to include the air quality exemption status of each project and a legend explaining the numerical codes, as this is essential information to which the public should have access. MTC should also add a definition of the Level of Review code “PR,” which is contained in many project descriptions but is not defined in the Key to Format on page 13 of the Draft ITIP.

In summary, necessary revisions to the ITIP include the removal of TCM-related projects from the ITIP, consistency between the TCM 2 projects in the ITIP and those in the RTP Amendment, adequate and accurate project information including air quality exemption status, and the removal of projects or components of projects that are not eligible for inclusion in the ITIP. Finally, this document must be revised and re-circulated for public review before it can be adopted as a legally adequate ITIP.

Thank you for your attention to these matters. Please feel free to contact us with any questions.

Sincerely,

Anne Harper, Staff Attorney  
Rachel Pelc, Research Associate

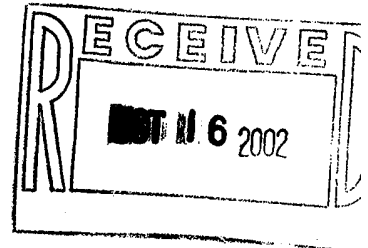


# TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND

16 Monte Cimas Avenue Mill Valley, CA 94941 415-380-8600

October 15, 2002

Steve Heminger, Executive Director  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607



Re: Supplemental Comments on Draft 2003 Interim TIP

Dear Mr. Heminger:

TRANSDEF is please to herein supplement its attorney's comments on the draft 2003 Interim TIP proposed for adoption at the Commission meeting of October 23, 2002

The Public Hearing on the TIP was procedurally defective.

The hearing was not conducted by any cognizable public body. While there was an announcement that the hearing was to be conducted by the Programming and Allocations Committee, the hearing did not appear on the Committee's agenda. The Committee was called to order and the roll called after the public hearing was closed. The suggestion by the General Counsel that the hearing was being conducted by the Commission was unavailing for the same reasons: The Commission did not have a noticed meeting on that date, and the Commission roll was not called. Until a committee or the Commission is called to order, official business may not be conducted. The current procedure creates public hearings that are official in appearance but not in substance.

HOV Lanes produce minimal benefits for transit, while increasing emissions.

MTC's inclusion of HOV lanes as "substantially supportive of TCM 2 implementation" is impermissible. Federal Conformity rules prohibit the adoption of capacity-expanding projects during a lapse. MTC has admitted that the HOV projects are not TCMs. In a document released only yesterday, MTC admits "Clearly a very small percentage of total daily vehicles will be transit; however, the purpose for including these HOV lanes is solely to boost transit ridership as required by the federal court Order." (*HOV Lanes Questions and Answers*). This assertion cannot possibly be true. The tiny level of ridership increase (1206/day) projected in that paper, coupled with the cost of highway construction, produces poor cost effectiveness that dwarfs even MTC's historic extravagances for BART. The inclusion of these HOV projects is a blatant deception in the interests of expanding highway capacity, with transit riders as fig leaf.

Current academic research (see Attachments 1-5, especially the highlighted passages) has developed enhanced modelling techniques that project that HOV lanes, in the long term, will not provide the congestion relief, transit ridership or emissions reductions benefits that typically are claimed for them.<sup>1 2 3</sup> "HOV lanes are primarily for the purpose of increasing capacity, however."<sup>4</sup> "Both the San Francisco Bay Area Metropolitan Transportation Commission (MTC) and the California Air Resources Board agree that speeding up auto travel will increase trip lengths and pull some riders off transit."<sup>5</sup> (citations omitted, emphasis added). Studies of best practices for HOV lanes call for 25 or more buses during peak periods.<sup>6</sup> The list of projects fails to meet this best practice, once the projects already under construction are deleted.

Finally, the proposed HOV projects fail to meet the standards for HOV practice proposed in the classic work in the HOV field.<sup>7</sup> The HOV lanes are not proposed to be transit only for 24 hours a day. Increases in air pollution and solo driving are not analyzed. 2+ occupancies are not excluded from HOV status. No 'money-back guarantee' is required to discourage future conversion of HOV to mixed flow configuration. Finally the proposal is for new construction, rather than conversion of existing mixed-flow travel lanes.

#### Failure to adequately document projects "substantially supportive of TCM 2"

Assuming for the moment that the inclusion in the Interim TIP of projects "substantially supportive of TCM 2 implementation" is legally permissible, the projects are not adequately justified. No criteria are identified as to which projects qualify for this special treatment. The methodology for projecting the ridership increases associated with HOV lanes is undocumented. Because the ridership for each individual route, prior to HOV lane completion and after, is undocumented, it is impossible to evaluate the ridership benefits on a project-by-project basis. TRANSDEF insists that these projects must be demonstrated to meet some threshold level of ridership increase benefit to be considered.

Projects already under construction should not have been part of the HOV project list, as they are independently eligible to be included in an Interim TIP. Their deletion would make the legitimate ridership increase resulting from those projects "supporting TCM 2" significantly smaller. The remaining ridership increase for each project should be divided by the cost of each project--the result is certain to be a phenomenally high cost per new rider.

We also insist that this benefit must be weighed against the net increase in emissions and VMT that the project will yield over an appropriately long term horizon.<sup>8</sup> This will require running the travel demand model, with a land use module to capture induced demand.<sup>9</sup> Interestingly, a net decrease in emissions and VMT, coupled with a transit ridership increase, is evident for most of the transit projects (with the notable exception of ferries and park and ride lots). We support the rapid implementation of these air quality beneficial transit (i.e., non-HOV lane) projects.

Appropriate Methods of Increasing Transit Ridership

Rather than clutter the TIP with projects of dubious eligibility, MTC would do much better to ask operators what they need to increase ridership. Most would likely respond that they need operating funds, and that the scarcity of such funds has been the limiting factor for their properties. MTC would do well to provide extended support via the capitalized preventive maintenance route. The other sets of projects that would be highly desirable to fund are the AC Transit Strategic Vision Plan and Muni's draft SRTP Amendment. These are highly cost-effective projects that can be expected to have a dramatic effect on regional ridership, as well as improving the equity of allocation of funds around the Bay Area.

TIP Project Miscategorization

A surprising number of projects are miscategorized as to their exempt status, or have the words "construction" in their project description. Attached to these comments is a spreadsheet with notes on specific projects. The index numbers are consistent with the spreadsheet distributed by MTC to the Conformity Task Force on September 25.

TRANSDEF believes that, during a conformity lapse, the proper means of proceeding with capacity expansion projects that have questionable air quality benefits is to submit them as new TCMs in a SIP to EPA. We remain ready and willing to collaborate with MTC toward that end. In the meanwhile, TRANSDEF is pleased to offer these comments on the Draft 2003 Interim TIP. Should any questions on these comments arise, please reach us at the phone number above.

Sincerely,



David Schonbrunn,  
President

Attachments

Source materials for Endnotes 1-9

Spreadsheet with miscategorized projects

cc: Jack Broadbent, EPA R9  
Michael Ritchie, FHWA  
Leslie Rogers, FTA  
Martin Whitmer, DOT OST

Endnotes

1. 1995. Johnston, Robert A. And Raju Ceerla. The Effects of New High-Occupancy Vehicle Lanes on Travel and Emissions. *Transp. Res.: A*. 30:1, pp. 35-50.
2. 1997. Rodier, Caroline A. and Robert A. Johnston. Travel, Emissions, and Welfare Effects of Travel Demand Management Measures. *Transp. Res. Rec.* 1598, pp. 18-24.
3. 2002. Rodier, Caroline A.; Abraham, John E. and Robert A. Johnston. A Comparison of Highway and Travel Demand Management Alternatives Using an Integrated Land Use and Transportation Model in the Sacramento Region. Submitted for *Transp. Research Board 80<sup>th</sup> Annual Meeting*.
4. 1995, p. 37
5. id.
6. Summary from <http://www.vtpi.org/tdm/tdm19.htm> of the following articles:  
Richard H. Pratt, "HOV Facilities," *Traveler Response to Transportation System Changes, Interim Handbook*, TCRP Web Document 12  
([www4.nationalacademies.org/trb/crp.nsf/all+projects/tcrp+b-12](http://www4.nationalacademies.org/trb/crp.nsf/all+projects/tcrp+b-12)), DOT-FH-11-9579, 1999.  
Katherine Turnbull, "Evolution of High-Occupancy Vehicle Facilities," *TR News 214 (Special HOV Issue)*, Transportation Research Board ([www.trb.org](http://www.trb.org)), May-June 2001, pp. 6-11.
7. 1994. Leman, Christopher K.; Schiller, Preston L.; Pauly, Kristin. *ReThinking HOV-High Occupancy Vehicle Facilities and the Public Interest*. The Chesapeake Bay Foundation, Annapolis MD.
8. 2002 and 1995
9. id.



Exempt projects in the 2003 INTERIM TIP that are miscategorized						
				In Hayward: Clawiter Road: Arterial Access Improvements including sidewalk, traffic signal and signal interconnect improvements (No new lanes).	Pavement resurfacing and/or rehabilitation	whatever category it is, resurfacing isn't it
361	ALA990087	System Management	Clawiter Road Arterial Access Impv.	Burbank Area: between Parkmoor Avenue and San Carlos Street; Construct enhanced landscaped and median island.	Pavement resurfacing and/or rehabilitation	adding medians
494	SCL010026	Maintenance/ Rehabilitation	Bascom Ave. Median & Landscaping	San Francisco: At Mission/Geneva, Geary/Divisadero, Mission/South Van Ness, and Geary/Park Presidio; Retrofit median island refuges for ADA accessibility.	Guardrails, median barriers, crash cushions	bicycle and pedestrian facilities
236	SF-010022	Other	Median Refuge Accessibility Retrofit	San Leandro: East 14th Street from Durant Ave. to Broadmoor (westside intersection); Install Streetlights and other crosswalk improvements (TEA 21#: 918).	Guardrails, median barriers, crash cushions	bicycle and pedestrian facilities
234	ALA990074	Other	E. 14th St. Median Improvements	BART: 16th Street BART Station; various accessibility improvements at the Southwest Plaza.	Specific activities which do not involve or lead directly to construction	bicycle and pedestrian facilities
924	SF-99LC01	Other	16th St. BART Station Southwest Plaza Improvements	Caltrain: From San Francisco to San Jose; Purchase/Manage a Centralized Control System & perform various Track Improvements along the system	Purchase of office, shop, and operating equipment for existing facilities	construction of power, signal, and communications systems
745	JPB990001	System Management	CalTrain Centralized Control System	BART: Systemwide; Traction Power Rehabilitation.	Rehabilitation or reconstruction of track structures, track, and trackbed in existing right of way	construction of power, signal, and communications systems
863	BRT99T005	Maintenance/ Rehabilitation	Traction Power Rehabilitation	Phased design and replacement of the overhead wires and related traction power system serving the light rail and trolley coach lines.	Reconstruction or renovation of transit buildings and structures	construction of power, signal, and communications systems
817	SF-970170	Maintenance/ Rehabilitation	Trolley Overhead Recon. Program	Emergency lighting for evacuation of stations and tunnels in the event of a utility power failure. Upgrade subway emergency power lighting, fire safety and telephone systems	Reconstruction or renovation of transit buildings and structures	construction of power, signal, and communications systems
822	SF-991034	Maintenance/ Rehabilitation	Metro Subway Electrical Improvements	Upgrade the emergency power systems at the San Rafael, Novato and Santa Rosa Bus Facilities to provide capacity to continue all functions in the event of power failure.	Purchase of office, shop, and operating equipment for existing facilities	construction of power, signal, and communications systems
748	MRN991041	Maintenance/ Rehabilitation	Bus Facilities Emergency Backup Power Sy	BART: Procure and install Advanced Automatic Train Control System.	Purchase of operating equipment for vehicles (e.g. radios, fareboxes, lifts, etc.)	construction of power, signal, and communications systems
763	BRT990001	System Management	Advanced Automatic Train Control System			

821	SF-991010	System Management	Stockton Street sidewalk widening	Remove existing bus boarding island on Stockton at Ellis and Market Streets, relocate the bus stop to the curb lane south of O'Farrell Street, plus other improvements.	Reconstruction or renovation of transit buildings and structures	construction of small passenger shelters
214	CC-010002	Expansion	Caldecott Tunnel 4th Bore	Caldecott Tunnel: 4th Bore project development and construction.	Engineering to access social, economic, and environmental effects of the proposed action or alternatives to that action	description incorrect--includes 'construction'
774	SM-991088	System Management	SamTrans Bus Communications System	From San Francisco to San Jose: Install a predictive Bus Arrival and Departure Passenger Notification system.	Purchase of operating equipment for vehicles (e.g. radios, fareboxes, lifts, etc.)	directional and informational signs
453	MRN970016	Maintenance/ Rehabilitation	Golden Gate Seismic Retrofit, Phases 1-3	SF/Marin County: Golden Gate Bridge; Seismic retrofit of the Golden Gate Bridge - construction on north and south approach viaducts, suspension span and Ft. Point Arch.	Pavement resurfacing and/or rehabilitation	hazard elimination
862	BRT991003	Maintenance/ Rehabilitation	BART Aerial Seismic Retrofit Program	BART: Seismic Retrofit Program; Upgrade the entire System against forces from local fault lines using current seismic design standards. Co-sponsor is Caltrans.	Rehabilitation or reconstruction of track structures, track, and trackbed in existing right of way	hazard elimination
884	SOL991059	System Management	I-80 EB Redwood St. on & off ramp mod.	Vallejo: I-80 EB on/off ramp from Redwood Rd to Admiral Callaghan; Reconfigure off ramp including Traffic signal modification, channelization, geometric improvements, and signs & striping.	Safety Improvement Program	interchange reconfiguration
969	SOL970019	System Management	W. A Street/ N. 1st Street signal	Dixon: West "A" Street/N. 1st Street, Install signals.	Traffic control devices and operating assistance other than signalization projects	intersection signalization
990	SOL990050	System Management	East Second Street Signal	East Second Street Signal: new signal at I-780 off-ramps	Traffic signal synchronization projects	intersection signalization
968	SOL970011	System Management	Industrial Way/ N. 1st Street signal	Industrial Way/ N. 1st Street signal. Installation of a fully actuated traffic signal at the West Lincoln Avenue/Solano Avenue intersection to improve the safety and operations of the intersection.	Traffic control devices and operating assistance other than signalization projects	intersection signalization
946	NAP991021	System Management	West Lincoln Avenue/Solano Avenue Traffic	San Francisco: Various intersections near schools; Restripe crosswalks and upgrade crossing signs to high-visibility FYG.	Traffic control devices and operating assistance other than signalization projects	intersection signalization
960	SF-010019	Other	Crosswalk restriping & crossing sign upgrades.			intersection signalization

352	MTC990017	System Management	Pavement Management Technical Assistance	Pavement Management System Technical Assistance Program (P-tap) - allow small to medium cities to start-up & maintain computerized PMS utilizing expertise of qualified consultants.	Pavement marking demonstration	pavement resurfacing
828	SOL970045	Maintenance/Rehabilitation	Parking facilities improvements	Improve transit parking area. Resurface and improve transit fleet parking area.	Reconstruction or renovation of transit buildings and structures	pavement resurfacing
351	MRN970002	Maintenance/Rehabilitation	Asphalt surface in Mill Val, Corta Mader	In Mill Valley, Corta Madera and Larkspur from Rodea Ave to 0.1 mile south of Sir Francis Drake Boulevard - Asphalt concrete Surfacing	Pavement marking demonstration	pavement resurfacing
805	MRN991011	Maintenance/Rehabilitation	Larkspur Ferry Terminal Park and Ride Pa	GGBHTD: Rehab and Overlay the Park N Ride Lot.	Reconstruction or renovation of transit buildings and structures	pavement resurfacing
834	SON991033	Maintenance/Rehabilitation	Santa Rosa Bus Facility Park n Ride Lot	Santa Rosa: Golden Gate Transit's bus facility at Piner Road and Industrial Way; Reseal with a slurry coat the 214-car park and ride lot.	Reconstruction or renovation of transit buildings and structures	pavement resurfacing
804	MRN991010	Maintenance/Rehabilitation	Rehab Bus Maint/Operations Facility Lots	GGBHTD: Rehabilitate Bus Maintenance and Operations Facility Lots	Reconstruction or renovation of transit buildings and structures	pavement resurfacing?
811	SF-010015	Maintenance/Rehabilitation	Transbay Terminal Replacement Project.	In San Francisco: Transbay Terminal; Conduct preliminary design and engineering analyses for Terminal replacement. This project is part of the DTX (see JPB991006).	Reconstruction or renovation of transit buildings and structures	planning and technical studies
198	SF-991012	System Management	Integrated Vehicle & Facilities Inventor	Replace mainframe systems (VMS & MMS) developed in-house in the mid-80's. New system will be a client/server version, an image-based online parts catalogue and ad hoc reporting.	Construction or renovation of power, signal, and communications systems	Purchase of office equipment
770	NAP990014	Maintenance/Rehabilitation	Tools and Equipment	Replace, refurbish, or purchase equipment for transit maintenance facility.	Purchase of operating equipment for vehicles (e.g. radios, fareboxes, lifts, etc.)	purchase of office, shop and operating equipment
798	CC-991026	Maintenance/Rehabilitation	Bus Wash Equipment Replacement	Bus Wash Equipment Replacement	Reconstruction or renovation of transit buildings and structures	purchase of office, shop and operating equipment
768	MTC950001	Maintenance/Rehabilitation	AFC Modernization/Translink Implementati	BART: Systemwide; Replace/renovate old AFC equipment, perform necessary site preparation, and implement TransLink®.	Purchase of operating equipment for vehicles (e.g. radios, fareboxes, lifts, etc.)	purchase of office, shop and operating equipment
1010	MRN010012	Transit Operations	Paratransit Dispatch Improvements	Throughout Marin County: Implement Mobile Data Terminals (MDT) and Automatic Vehicle Locators (AVL) for Americans with Disabilities Act (ADA) mandated paratransit service.	Transportation enhancement activities (excepting rehabilitation and operation of historic transportation buildings, structures, or facilities)	purchase of operating equipment



208	SOL010035	Other	AVL/Annunciator Technology	Vacaville: Install transit vehicles with current AVL/Annunciator Technology (passenger information system).	Directional and informational signs	purchase of operating equipment for vehicles
682	NAP990009	Maintenance/Rehabilitation	Road Supervisor Van	Road Supervisor Van	Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet	purchase of support vehicles
667	CC-97AM67	Maintenance/Rehabilitation	Contra Costa Blvd./I-680	Purchase (1) support vehicle	Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet	purchase of support vehicles
877	SM-010065	Maintenance/Rehabilitation	Grade Crossing Rehabilitation	Caltrain: Upgrade timber, asphalt & rubber Xings to concrete panels. Replace/modernize grade crossing flashers & gates. Improve walkways approaching grade crossing & install fencing.	Rehabilitation or reconstruction of track structures, track, and trackbed in existing right of way	railroad/highway crossing
789	VAR991009	Maintenance/Rehabilitation	Lump Sum Local Railroad Crossing	Lump sum local railroad crossing program. Consistent with 40 CFR Part 93.126, 127, 128, Exempt Tables 2 & 3.	Railroad/highway crossing warning devices	railroad/highway crossing
291	SOL970075	Expansion	Wilson Ave. Improvements Project: Ph II	Vallejo: Wilson Ave from Florida to Route 37; Improve and realign, construct new curb, gutter, sidewalks, and medians, and install landscaping.	Intersection channelization projects	reconfiguration
639	ALA991052	Maintenance/Rehabilitation	Hayward Train Washer Replacement	BART: Hayward Facilities Depot; Replace facilities used to wash the exterior of transit vehicles.	Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet	reconstruction or renovation of transit buildings
870	SCL010047	Maintenance/Rehabilitation	Guadalupe Corridor LRT Platform Rehab & Retrofit	San Jose: Guadalupe Corridor; Rehab and retrofit existing station platforms to accommodate Low floor light rail vehicles.	Rehabilitation or reconstruction of track structures, track, and trackbed in existing right of way	reconstruction or renovation of transit buildings
876	SM-010063	System Management	Tunnel Rehabilitation	Caltrain: Rehabilitation work at the four tunnels to include repairs to the existing tunnel liners, improve drainage, and install lighting, ventilation and communication systems.	Rehabilitation or reconstruction of track structures, track, and trackbed in existing right of way	reconstruction or renovation of transit structures
201	SOL991094	Maintenance/Rehabilitation	Dredge - Terminal & MI facility	Vallejo: Terminal & Maintenance facility, Drege facility.	Construction or renovation of power, signal, and communications systems	rehabilitation of track structures (closest analog)
803	MRN990017	Maintenance/Rehabilitation	Ferry channel & berth dredging.	GGBHTD: From San Francisco to Marin County; Dredge ferry channel and berth.	Reconstruction or renovation of transit buildings and structures	rehabilitation of track structures (closest analog)
765	MRN010031	Maintenance/Rehabilitation	GGBHTD Spaulding Vessel Renovation.	GGBHTD: Complete renovation of one Spaulding vessel operated by the District.	Purchase of operating equipment for vehicles (e.g. radios, fareboxes, lifts, etc.)	rehabilitation of transit vehicles

716	SM-991091	Maintenance/ Rehabilitation	Diesel Engine Repowering: Phase 1&2, 80 & 57 buses	SamTrans: Purchase clean diesel replacement engines for pre-1993 buses: FY 2000 36 engines, FY 2001 - 42 engines.	Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet	rehabilitation of transit vehicles
766	MRN010032	Maintenance/ Rehabilitation	GGBHTD PMT Retrofit Project	GGBHTD: Retrofit agency fleet with Transit Particulate Matter Trap.	Purchase of operating equipment for vehicles (e.g. radios, fareboxes, lifts, etc.)	rehabilitation of transit vehicles
638	ALA991003	Maintenance/ Rehabilitation	Refurbish Express II ferry	Refurbish Express II ferry	Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet	rehabilitation of transit vehicles
248	MRN99SA04	Maintenance/ Rehabilitation	Glen Dr. - Storm Damage Restoration	Glen Dr. - Storm Damage Restoration	Hazard Elimination Program	repair of damage
389	ALA99SA13	Maintenance/ Rehabilitation	Alameda County storm damage repair	In Oakland: Panoramic, Fontaine, Monterrey, Skyline; Storm Damage Repair and roadway rehabilitation	Pavement resurfacing and/or rehabilitation	repair of damage
608	VAR991006	Maintenance/ Rehabilitation	Lump Sum Local Emergency Repair	Lump sum local emergency repairs at various locations. Consistent with 40 CFR Part 93.126, 127, 128, Exempt Tables 2 & 3.	Pavement resurfacing and/or rehabilitation	repair of damage
756	SM-010066	System Management	Systemwide Security	Caltrain: Security enhancements such as installation of panic buttons, fire alarms and closed circuit cameras along the Caltrain Corridor.	Purchase of office, shop, and operating equipment for existing facilities	safety improvement program
399	CC-010054	Maintenance/ Rehabilitation	Doman Dr/Garrard Blvd Tunnel	Richmond: Doman Drive/Gerrard Blvd tunnel 1/4 mile south of Cutting Blvd; Repair tunnel and instal post-construction monitoring system.	Pavement resurfacing and/or rehabilitation	safety improvement?
213	B-B010001	Maintenance/ Rehabilitation	Benicia/Martinez Bridge Environmental Mitigation	Benicia/Martinez Bridge - Conduct Environmental Mitigation for Bridge. Funds moved from B-B970001 to conduct environmental mitigation.	Engineering to access social, economic, and environmental effects of the proposed action or alternatives to that action	specific activities which do not lead directly to construction
256	SM-991100	Other	Route 1/92 Required Mitigation	Half Moon Bay - Route 92 - monitor water quality (required mitigation)	Hazard Elimination Program	specific activities which do not lead directly to construction
338	SF-970174	Transit Operations	Short Range Transit Plan		Operating assistance to transit agencies	specific activities which do not lead directly to construction
210	ALA010036	Expansion	Berkeley/Oakland/S.Le and/or Cor MIS Study	AC Transit: Along the Berkeley/Oakland/S. Leandro service corridor. Complete Major Investment Study preceding the preliminary engineering & completion of environmental clearance.	Engineering to access social, economic, and environmental effects of the proposed action or alternatives to that action	the exemption category is 'to assess', not 'to access.' See also projects 211-232.
1000	ALA990088	System Management	I-880 Smart Corridor	In Alameda County: Interstate 880 freeway: Smart Corridor Project.	Transportation enhancement activities (excepting rehabilitation and operation of historic transportation buildings, structures, or facilities	Traffic control devices and operating assistance other than signalization projects

353	SCL991020	System Management	De Anza Blvd Corridor Advanced ITS	In Cupertino: Along De Anza Blvd between Homestead Rd and Prospect Rd: Install ITS infrastructure along a highly congested MTS regional arterial corridor.	Pavement marking demonstration	Traffic control devices
967	SM-991085	System Management	Geneva Avenue Traffic Improvements	Daly City: On Geneva Ave.: Replace & upgrade traffic signals at intersection of Geneva Ave, Schwerin and Rio Verde Streets to improve traffic progression and signal coordination.	Traffic control devices and operating assistance other than signalization projects	traffic signal synchronization
892	ALA990084	System Management	San Pablo Ave Smart Corridor - Phase II	Between Richmond and Oakland: San Pablo Avenue Smart Corridor Project - Phase II; Including traffic study and signization (also see ALA990006).	Specific activities which do not involve or lead directly to construction	traffic signal synchronization
379	ALA991036	Maintenance/Rehabilitation	Arteial Pavement Rehab - Phase III TEA-21	From Hercules - El Cerrito: San Pablo Avenue (SR 123) btw Route 4 in Hercules & the Alameda County line in El Cerrito; Install ATMS equipment for San Pablo SMART Corridor. - Co Sponsor is CCTA.	Pavement resurfacing and/or rehabilitation	traffic signal synchronization
788	SF-991025	Other	Renovation of Pier 43 Ferry Arch.	San Francisco: Port of SF; Historic Renovation of Pier 43 Ferry Arch.	Railroad/highway crossing warning devices	transportation enhancement activities
808	SCL977006	Other	SCL Fairgrounds - Roundhouse rehab	Santa Clara County Fairgrounds - move and rehabilitate 1893 railroad roundhouse and turntable	Reconstruction or renovation of transit buildings and structures	transportation enhancement activities?
796	CC-970055	Maintenance/Rehabilitation	Alvarado Park rest stop restoration	In Richmond: At the Alvarado Park in Wildcat Canyon; Restore 1930's rest stop and repair bridge.	Reconstruction or renovation of transit buildings and structures	transportation enhancement activities? safety roadside rest areas?
823	SM-010064	System Management	Bridge Rehabilitation	Caltrain: Systematic rehabilitation and/or replacement of existing bridge structures and culverts on the existing main line tracks.	Reconstruction or renovation of transit buildings and structures	widening narrow pavements and reconstructing bridges
498	SF-010004	Maintenance/Rehabilitation	4th St Bridge Seismic Retrofit & Rehab	On 4th St over Mission Channel waterway - repair, seismic retrofit, and rehabilitation of 4th St. bridge	Pavement resurfacing and/or rehabilitation	widening narrow pavements and reconstructing bridges
609	VAR991007	Maintenance/Rehabilitation	Lump Sum Local Bridge Replacement	Lump sum local highway bridge replacement at various locations. At various locations, Highway Bridge Replacement and Rehabilitation (HBRR) Projects.	Pavement resurfacing and/or rehabilitation	Widening narrow pavements or reconstructing bridges

# LAW OFFICE OF MARC CHYTILO

## ENVIRONMENTAL LAW

October 16, 2002

Public Information  
Metropolitan Transportation Commission  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607

By Fax (510 464-7848) and U.S. Mail

RE: Comment on Draft Interim Transportation Improvement Program

*Public Information:*

This office represents Transportation Solutions Defense and Education Fund (TRANSDEF) in regard to Bay Area air quality and transportation planning issues.

Please accept these comments to the draft 2003 Interim Transportation Improvement Program ("ITIP"). We object to the proposed adoption of the ITIP as proposed at the October 23, 2002 Metropolitan Transportation Commission meeting and request that the ITIP be revised and recirculated for public comment prior to the Commission taking action. Alternatively, certain classes of projects should be removed from this program before the Commission considers it adoption.

**I. MTC IS IMPROPERLY MELDING TO TWO SEPARATE EXTRAORDINARY RESPONSIBILITIES**

**A. MTC Can Adopt an Interim TIP and Interim RTP Only Containing Exempt Projects During a Conformity Lapse**

The ITIP improperly merges two separate unusual responsibilities faced by MTC. The first is responding to the conformity lapse that began on October 5, 2002 due to the absence of an adequate Motor Vehicle Emissions Budget ("MVEB") for transportation conformity purposes. Although the current unavailability of the MVEB is due to an Order of the federal Court of Appeals from the Ninth Circuit, the fundamental failure of the 2001 Ozone Attainment Plan to specify control measures sufficient to reduce air pollution emissions to achieve attainment condemns the MVEB to inadequacy. The Clean Air Act simply does not authorize "enforceable commitments," § 110(k)(4); *NRDC v. EPA*, 22 F.3d 1125 (D.C.Cir. 1994), and MTC will not be capable of making a finding of transportation conformity for any plan, program or project until the additional controls accomplishing the requisite 26 tons per day of ROG emissions reductions are specified in a revised and adopted SIP submittal.

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Until an adequate SIP and MVEB is submitted to EPA, the region will continue in conformity lapse. While in lapse, MTC must adopt an interim Transportation Improvement Program and interim Regional Transportation Plan containing only projects exempt from conformity. TCMs that are contained in an approved State Implementation Plan have themselves been incorporated into the region's emissions inventory and attainment demonstration, and therefore are exempted from the conformity determination requirement during periods of lapse. Projects not expressly identified in the SIP as a TCM do not have their emissions effect integrated into the SIP, and thus are not exempt. See below. Additional TCMs can be adopted by MTC for expedited inclusion into the SIP to advance capital transit projects that are not otherwise exempt, See EPA-DOT MOU, 4/19/2000, Appendix A, C.

Thus, the goal of the ITIP is to identify exempt projects for advancement, including approved TCMs, and foster the rapid development of other TCMs into a SIP amendment that can be employed to apply funding to air quality beneficial projects that can accomplish the 26 tpd shortfall. The ITIP will ensure that federal transportation funds are beneficially used in the Bay Area.

B. The TCM 2 Order Requires Specification of the Elements of TCM 2

The TCM 2 Order has an entirely different basis and application to the processes at hand, although there is some potential overlap. The 1982 TCM requires consultation with transit operators to develop programs that would accomplish a 15% transit ridership increase above 1982 levels, with concomitant air pollution emissions reductions. TCM 2 clearly anticipated a process where MTC consults with transit operators and allocates funding to support the programs and activities identified through that consultation that will increase transit ridership. While the Remedy Order in *Bayview Hunters Point Community Advocates v. MTC*, 212 F.Supp. 2d 1156 (2002) directs MTC to amend the RTP to specifically identify those projects that MTC relies upon to accomplish the transit ridership increase, MTC's authority to amend the RTP is constrained by the absence of an adequate MVEB. MTC thus is unable to find conformity for any such RTP amendment that does not conform to the procedures in the DOT-EPA MOU for interim RTPs. Clearly existing and new bona-fide transit ridership increasing projects with beneficial air quality consequences may proceed through the IRTP and ITIP, and potentially through a SIP revision, but any project advanced by MTC ostensibly for purposes of increasing ridership but which has adverse air quality consequences requires a conformity determination to proceed, otherwise the emissions increases cannot be shown to not cause or contribute to violations as required by § 176(c).

MTC cannot rely on the past finding of conformity and thus the 2001 RTP, as the MVEB employed has had its effectiveness stayed. MTC has no other course, in this conformity lapse, than to adopt an interim Regional Transportation Plan ("IRTP"), as envisioned by the EPA-DOT MOU (4/19/2000), to both address the TCM 2 remedy order and incorporate additional projects

programmed in the ITIP. The IRTIP must delete reference to capacity increasing highway projects until the conformity lapse is cured (i.e., until after the 2004 SIP submittal is determined adequate or approved by EPA, depending on the authority in effect at that time) and prioritize exempt projects, including only bona fide existing TCMs, or on a conditional basis, new TCMs and allocate the surplus funds to transportation projects that will help solve the Bay Area's air quality problems.

MTC bears "different, and greater, responsibilities than the regional transit operators in implementing TCM 2." *Bayview II*, 212 F.Supp. 2d 1156, fn 3, citing *Bayview*, 177 F.Supp. 2d at 1028-29. MTC bears overarching responsibility for accomplishing TCM 2's transit ridership increase goals, but in declining to employ TCM 2's express implementation procedure – consulting with transit operators to determine the current (i.e., years 2002-2006) strategies to accomplish the transit ridership increase – MTC runs the risk of appearing to opportunistically, and improperly, use the TCM 2 obligation as a cloak under which many specific projects are improperly deemed exempt without actually being reflected in the text of TCM 2 or in any of the preliminary steps, which here were ignored. While MTC argued that it lacked control over the forces that would determine whether the Bay Area could accomplish the 15% transit ridership increase, here it failed to cooperate with the transit operators that stand ready to provide Short Range Transit Plans that are themselves designed specifically to accomplish the transit ridership increase. Funding for programs and projects in the SRTPs is available only if these Plans and projects are included in the ITIP, but MTC has failed to avail itself of consultation and cooperation with the transit operators in this ITIP. This deprives MTC of authority to unilaterally claim that a string of HOV projects are instrumental to achieving transit ridership increases when the transit operators offer transit ridership increase strategies that fit much more naturally within TCM 2's language and purpose and would increase ridership by a much larger amount and much more cost-effectively.

MTC contended in *Bayview* that the projects necessary to accomplish the 15% transit ridership increase were already in the Transportation Improvement Program and that the 15% transit ridership increase would occur, based on those projects. The conformity lapse has changed the nature of MTC's authority – it may not rely on programmed projects that will reach the 15% transit ridership increase passively, nor may it now rely on any project that is not exempt.

Far from mandating that any projects increasing transit ridership must proceed in any instance as asserted by MTC, the Court in *Bayview II* expressly acknowledged that it would be inappropriate, in a pre-lapse environment, to enjoin any project that didn't contribute to accomplishing the TCM 2 transit ridership increases. 212 F.Supp. 2d at slip p. 40. MTC must demonstrate, as it stated to the Court, that existing RTP projects would accomplish the 15% ridership increase. While the Court admonished "it would therefore be ill-advised to amend the TIP in any way that would make compliance [with the 15% transit ridership increase] unlikely," this does not provide *carte blanche* to describe any (and many) projects as implementing TCM 2 as a means to avoid § 176(c)'s conformity requirement. MTC possesses discretion under

*Bayview II* to adopt a revised TIP as they see fit, mindful of the duty to comply with TCM 2's goals, and is hardly compelled to include this specific set of projects in the ITIP regardless of whether these projects could be lawfully included in that program.

Assuming, *arguendo*, that MTC's apparent claim that all transit projects must be included in the ITIP has merit, MTC would then need to include all transit (and presumably other classes of) projects in the region that contribute to transit ridership increases, including the 76 transit projects in MTC's Blueprint report, all transit projects in the RTP EIR that were not funded, all SRTP projects that would increase ridership, every project suggested by the public or considered by MTC in the SIP RACM analysis that would increase ridership, every project suggested by the public at any CMA or MTC or SIP meeting or by an transportation agency.

In fact, the Blueprint itself shows that there are 39 INDIVIDUAL projects, any one of which would by itself increase ridership by more than MTC claims for its proposed HOV lanes. There are 17 which would increase ridership by more than 5,000 riders a day, compared with MTC's 1206. The top 4 projects would increase ridership by 62,000 daily riders.

## II. ITIP DEVELOPMENT AND ADOPTION VIOLATES APPLICABLE AUTHORITY

The EPA-DOT Memorandum of Understanding (4/19/2000) specifies applicable procedures and elements of an ITIP and IRTP. This MOU requires that all the normal public involvement procedures apply and thus concludes "[I]t is expected that the process necessary to develop Interim Plans and TIPs with new projects, not previously conforming, will take most areas at least 6 months." MOU, Appendix A, C. MTC has instead again rushed through an inadequate and incomplete program, truncating public involvement, apparently excluding transit operators and other partners in the cooperative process, and withholding critical information for release at the last minute, if at all. These flawed procedures bar MTC from adopting the ITIP at this time.

### A. MTC's Public Involvement Processes Have Been Inadequate, Prejudicing the Public

Appendix A of the 4/19/2000 EPA-DOT Memorandum of Understanding provides that the interim Regional Transportation Plan and Transportation Improvement Program must be developed using normal public involvement proceedings. MOU, Appendix A, A.2. 23 C.F.R. § 450.316(b) defines the minimal elements of an adequate public involvement process. The MPO's proactive public involvement process should provide complete information, timely public notice, full public access to key decisions. See 23 C.F.R. § 450.316(b)(1); 450.316(b)(1)(ii-iv). See also 58 Fed. Reg. 58054-55 ("Rather than adopt specific standards that might inappropriately burden MPOs and States, the FHWA and the FTA have adopted a "performance" approach which identifies what an effective involvement process should achieve.") This has not occurred in this case.

MTC has not provided complete or timely information to this process. MTC has not described the legal basis for the unprecedented and unauthorized “supports implementation of a TCM” exemption to the statutory requirement of plan, program and project conformity. Meaningful public comment to such a novel and unconventional conclusion that is utterly unexplained and unauthorized is impossible. MTC’s posturing and refusal to address the issues clearly defined in even MTC’s minutes from the September 16, 2002 Air Quality Conformity Task Force meeting improperly and unfairly shifts the burden to the public to prove a negative, when the legal obligation rests upon the MTC to act within delegated authority or not at all.

MTC withheld basic technical information as to the basis for the hotly contested contention that the purportedly exempt HOV projects provide meaningful and sustainable air quality benefits. MTC’s HOV Lanes Questions & Answers, responding to a flurry of public questions on September 16, 2002, was issued on Monday, October 14, 2002, 2 days before the closure of the public comment period. This cannot comport with the duty to provide complete and timely information.

#### B. Incomplete Project Information

The ITIP Public notice and accompanying information are chronically short of details necessary to justify each project’s exemption and thus for the public to meaningfully comment. MTC is playing “hide and seek” with the relevant information.

MTC has systematically prevented the public from understanding and organizing basic project information that is necessary for meaningful public review and comment. There still is no concordance between RTP ID #s and TIP ID #s available, making it impossible for the public to verify that all TIP projects are in the RTP and otherwise compare these documents. While MTC staff promised TRANSDEF and the public this concordance at the June Task Force meeting, they later changed their story, and claimed to have offered to supply only the new project IDs. Because there haven’t been any new project IDs supplied, they haven’t even followed through on that promise.

Staff released on Monday, October 14, 2002 operational and geometric data to support alleged exempt character of truck climbing lane projects. However, it arrived two days before the end of the comment period. The broader public needs to see this material as part of a recirculated draft. Comment on these projects at this time is not possible.

Again on Monday, October 14, 2002, staff provided limited additional information on certain HOV projects. Two days is insufficient time to respond to technical information, and this comment letter expressly does not address or respond to information provided on October 14, 2002. Recirculation of the ITIP with additional information responding to the issues otherwise identified in this and other public comment is required.



The October 14, 2002 information is complex, poorly formatted, and difficult to interpret and apply. It is impossible to determine how much ridership comes from each of the HOV projects since transit ridership is aggregated. Some projects with a great number of associated bus routes, such as Marin County San Rafael 101 Gap Closure, are improperly included in the list, as they are already under construction but also listed as needing further federal approval. It is speculative that these subsequent phases will occur while the region is still in lapse. Once such projects are deleted from the list, the associated transit ridership benefits are greatly reduced. Others, such as the Marin Sonoma Narrows, MRN990055, are ineligible, as they will not be completed with construction prior to Nov. 2006. The transit ridership consequences of each TIP project need to be analyzed separately, with TIP ID attached, for meaningful public comment.

C. Failure to Coordinate ITIP with Transit Operators

Regulations at 23 C.F.R. § 450.312 specify that the MPO, State and transit operators “shall cooperatively develop the [RTP and TIP]”. This “envision[s] a process in which the participating parties will work together toward common goals/objectives, compatible plans and programs.” 58 Fed. Reg. 58045 (Oct. 28, 1993). The Bay Area Conformity SIP requires that before releasing a TIP or RTP in draft that it convene the Conformity Task Force to review assumptions on modeling, projects, TCMs, financial constraint, etc. These requirements apply with equal vigor to the ITIP/IRTP processes. EPA-DOT MOU. Had MTC cooperatively consulted with transit operators in developing the ITIP, the many programs that have recently been developed by the region’s transit operators for the express purpose of increasing transit ridership would have been advanced and considered for funding. This is clearly not the case, as the ITIP is simply a repackaging of MTC’s preferred TIP project list, with minor amendments. Had consultation and cooperation occurred, the Short Range Transit Plans developed by Muni and AC Transit (through settlement with Bayview Hunters Point plaintiffs) would have been considered as recipients of the \$2.4 billion in excess funds liberated by MTC’s inability to fund highway capacity increasing projects. MTC’s shortcut endangers FHWA/FTA’s review of the ITIP. “Evaluation of the level of cooperation will be a major factor in FHWA/FTA’s planning finding.” 58 Fed. Reg. 58045. Here, there is no evidence of formal “cooperation” with transit operators, and the ITIP suffers fatal flaws as a result.

E. Fiscal Constraint of the Revised ITIP and IRTP Must Be Demonstrated

A central element of transportation planning and TIP programming is fiscal constraint. 23 U.S.C. § 134; 23 C.F.R. §§ 450.324(e); 450.322(b); Bay Area Conformity SIP § 93.108. The ITIP removes a number of projects from the TIP, leaving funds available for other exempt projects and TCMs. The ITIP must demonstrate that it satisfies standards of fiscal constraint. 4/19/2000 EPA-DOT MOU, Appendix A, A.3. So should the IRTP. Instead, the ITIP and IRTP demonstrate a surplus of approximately \$2.4 billion. This violates statutory and regulatory requirements of fiscal constraint and preclude adoption of the ITIP.

**F. Findings Are Required**

In furtherance of § 176(c), MTC must make specific findings addressing project exemption determinations and that these determinations conform under § 176(c)(1)(A-B). Finding are necessary to allow a reviewing court to trace the factual and legal conclusions relied upon by the agency. *Topanga Ass'n for a Scenic Community v. County of Los Angeles*, (1974) 11 Cal.3d 506, 514. MTC is a state agency authorized and acting under state law, and TIPs and RTPs are also authorized by state law. The California Administrative Procedures Act requires procedural safeguards accompany MTC's actions, and this includes the adoption of formal findings.

The Draft ITIP was publicly released prematurely, lacking a required preliminary interagency consultation and other required processes. Supporting materials, both inaccurate and incomplete, were released very late into the comment period, necessitating a recirculation.

**III. PROJECTS ARE IMPROPERLY DESIGNATED EXEMPT FROM CONFORMITY REQUIREMENTS**

MTC may not approve any ITIP or IRTP that does not conform to the SIP pursuant to EPA's conformity regulations. Projects must conform unless they are exempt projects. The list of exempt projects is narrow and specific. 40 C.F.R. § 93.126; BA Conformity SIP § 93.134-135. Many of the projects that MTC has included in the ITIP are not exempt, and/or are so lacking in information as to prevent any verification of the project's potential exempt status.

**A. Supports TCM Implementation**

MTC's proposed summary reliance on the conclusion that projects may be exempted from conformity by describing these projects as supporting the implementation of TCM 2. This unexplained conclusion has no basis in law, ignores applicable regulatory authority, and cannot be ascribed even to an extension of the theory of conformity. Further, it is asserted without sufficient explanation of how each project serves this function, reflecting a wholly arbitrary determination, were it legal.

EPA's SIP adequacy regulations establish that control measures must be "adopted as [enforceable] rules and regulations." 40 C.F.R. § 51.281. "Copies of rules and regulations must be submitted with the Plan. Submittal of a plan setting forth proposed rules and regulations will not satisfy the requirements of this section nor will it be considered a timely submittal." *Id.* In the case of TCMs, SIPs "must contain procedures for obtaining and maintaining data on actual emissions reductions achieved as a result of implementing transportation control measures." 40 C.F.R. § 51.213(a). These regulations demonstrate that, like all SIP control measures, TCMs

must be specific and are subject to a further monitoring requirement. Thus the projects listed by MTC as “supporting implementation of TCM 2” clearly do not constitute TCMs themselves. Similarly, even if TCM A were approved by EPA and thus the basis for exemption, TCM A does not specify that HOV lanes are a part of the TCM in any way. MTC has created a fiction as an administrative convenience that is not supported by the cited TCMs.

The conformity regulations and process exempt TCMs from the conformity determination requirement because the emissions consequences of TCMs are explicitly included in the SIP’s emissions inventory and attainment demonstration. MTC’s approach prevents any consideration or evaluation of the emissions consequences of the various allegedly exempt projects. In so doing, it improperly abdicates its responsibilities to assure conformity.

#### B. Partially Exempt Projects

A number of the projects included in MTC’s exempt project list appear to have some features that might properly be considered exempt, but have other aspects and/or portions included within the same project description that are not exempt. If any portion of a project is not clearly within the scope of the § 93.126 exempt project list (Bay Area Conformity SIP §§ 93.134-135), that entire project is not exempt.

#### C. High Occupancy Vehicle Lane Projects

Commenters have already expressed considerable concern and opposition to the inclusion of HOV lane projects as exempt from conformity. HOV lanes have the propensity to increase highway capacity, induce VMT, increase emissions by enabling additional high speed travel with higher emissions, provide a dis-incentive to transit by speeding SOV travel and exchanging ultra-high occupancy public transit with much lower occupancy 2 person carpools, add mixed use capacity for the majority of each day, etc. E.g., where a lane is restricted to HOVs only 2 ½ hours a weekday in each direction, then 93% of the week it is a mixed flow lane. These potential consequences, established and demonstrated through empirical study of HOV lane projects and systems, preclude MTC’s finding that these projects are categorically exempt from conformity. Tellingly, they are not listed as exempt at § 93.126 (or at Bay Area Conformity SIP § 93.134-135).

Regardless of the exempt status of the HOV lane projects, MTC must supply detailed operational criteria for each HOV lane project for the public to comment meaningfully. All operational criteria for an HOV project in place to ensure an air quality benefit (such as specifying the levels of occupancy, restriction on the periods, if any, when the lane may be used as a mixed use lane, prohibition against conversion to an unrestricted mixed use lane, dedication for use as a transit vehicle only lane, etc.), must be express, written commitments obtained and demonstrated in compliance with the requirements of 40 C.F.R. § 93.125.

D. Interagency Concurrence with Individual Exemptions is Required

EPA's conformity regulations provide that any exempt project with "potentially adverse emissions impacts for any reason" may be determined to not qualify for an exemption from the conformity requirement. 40 C.F.R. § 93.126; Bay Area Conformity SIP §§ 93.134-135. This is a "key decision" that the public must have access to early in the ITIP development process. 23 C.F.R. § 450.316(b)(1). Given public skepticism voiced at the September 16, 2002 Air Quality Conformity Task Force meeting over whether many of the claimed exemptions are legitimate and justified, disclosure of this key decision early in the process is necessary to enable adequate public comment opportunities.

In conclusion, MTC has attempted to improperly meld two separate obligations resulting from independent court orders, and in so doing, seeks to avoid the consequences of either order. Transportation conformity was intended by Congress to contribute emissions reductions to speed attainment of the health based ambient air quality standards, and federal funding of projects that make the problem worse are not to be funded unless and until they conform to the plan for expeditious attainment. Until MTC recognizes its responsibilities in this regard, they will continue to waste valuable resources and time. We implore MTC to withdraw this flawed ITIP, develop a series of new TCMs for inclusion in a revised SIP submittal and include those TCMs in an interim Regional Transportation Plan and interim Transportation Improvement Program.

Sincerely,



Marc Chytilo

CC: EPA Region IX Administrator Wayne Nastri  
FHWA Division Administrator Michael Ritchie  
FTA Regional Administrator Leslie Rogers